

## **EXCERPT FROM THE APRIL 2, 2013 REGULAR MEETING OF THE PLANNING COMMISSION**

### **III. PUBLIC HEARINGS**

#### **1. Text Amendment Petition No. 13-2AM - Building Height & Conditional Use - Staff: Roger Clark, Planner**

(1:31) Chair Snyder read a memorandum dated April 2, 2013, stated no written communications have been received regarding this petition; and opened the public hearing.

#### **Staff Presentation**

Mr. Clark stated this amendment was reviewed by the commission in a workshop, there have been minimal changes, and explained the goal to bring the Land Development Code (LDC) in compliance with the comprehensive plan pertaining to building height measurement and the conditional use process. He noted the origination of the conditional use process was for additional height only, stated additional conditional uses were added through the approval of the comprehensive plan that include affordable housing density bonus and gated communities, and reviewed suggested changes made to the text amendment.

Discussion followed on approval of conditional use by council, and specifying which board determines approval for text amendment and site and development plan approvals.

Mr. Clark continued on conditional use changes regarding height, density and gated community approvals, and the addition of the word "allowance".

Discussion continued on variance decisions on height, section 86-42(c)(1), the term "applicable board" applying to council and planning commission, clarifying language in subsection (c)(3), the elimination of the reference to the commission report, the expiration of conditional use, the increase in density through affordable housing, density increase criteria being in the comprehensive plan not currently in the code, changing the wording in subsection (i)(2) concerning the building permit to "applied for" rather than "issued", the benefit to the homeowners pertaining to the deadline, criteria for granting an extension, and staff determining if the complete building permit application has been submitted.

Mr. Clark reviewed the definition section.

Discussion took place on the Federal Emergency Management Agency (FEMA) first habitable floor requirement, the coastal area requirement, the average elevation, point of measurement from the road, the definition of conditional use, affordable housing being in the definition, section 86-42(a)(1), clarifying the difference between a conditional use and a variance, and adding the word "process" to 86-41(b)(3).

Mr. Clark reviewed the suggested changes, the Residential Single Family (RSF) antenna exemption, noted the attempt to mirror the code to the comprehensive plan, and the review of spires is during the site and development plan review.

## Audience Participation

(2:10) Jeff Boone, Boone Law Firm, noted the difficulty in changing the code to match the comprehensive plan, suggested minor changes are necessary, and pointed to section 86-42(b)(1)a stating “development plan at an appropriate scale” verbiage should replace “site and development plan”. He talked about section 86-41(b)(2) and (3), requests being filed concurrently with the site and development plan, the site and development plan being an engineering document, commented the conditions of approval are confusing, and requested the language being clarified.

Mr. Boone continued speaking on section 86-42(i)(2)(a) and (c), and suggested including language pertaining to natural disasters.

Discussion followed on adding language “or actions beyond the control of the applicant” or “financial legal constraints or other circumstances deemed appropriate by council”, using the term reasonable constraints instead of legal constraints, section 86-42(i)(2), and subsection (k).

Mr. Persson suggested using the language “for the same type of conditional use” on a property for a twelve month period.

Discussion followed on section 86-570(b) pertaining to exempt roof surfaces, there not being a problem with the interpretation of height, keeping the language the same, replacing the word “surface” with “impertinence”, defining a nonexempt impertinence attached to the roof, section 86-42(a)(1), (2) and (3) regarding story height, the current definition of story in the code, using ten feet in the definition of floor or story, and a possible motion to approve with changes or have staff make changes and bring back to the board.

Mr. Persson stated there is no re-advertising necessary if the petition is continued to a date certain.

(2:43) Chair Snyder closed the public hearing.

Mr. Towery **moved** to continue Petition No. 13-2AM to the April 16, 2013 meeting. **Seconded** by Mr. Williams. MOTION CARRIED ON VOICE VOTE UNANIMOUSLY.

## EXCERPT FROM THE APRIL 16, 2013 REGULAR MEETING OF THE PLANNING COMMISSION

### 3. Text Amendment Petition No. 13-2AM - Building Height & Conditional Use - Staff: Roger Clark, Planner

(2:12) Chair Snyder reopened the public hearing continued from the April 2, 2013 meeting.

Mr. Clark stated staff is bringing the code in compliance with the comprehensive plan, reviewed the changes recommended by the commission such as; using the term “site plan” for conditional use submittal requirements, inserting the term “may” instead of “shall”, clarified the language

regarding the timeframe for conditional use expiration, and elimination of language regarding recovery of attorney fees.

Discussion took place regarding public notice on page four, public workshop requirements, density modification on affordable and workforce housing, changing the “and” to “and/or”, the definition of conditional use on page nine, and changing the wording “approved through a public hearing process” to “approved following a public hearing process”. Mr. Clark noted the only addition to this sentence was the word “process”.

Discussion followed on using the term “story” or “floor”, the word stories being consistently used, three stories indicating 42 feet, maintaining consistency with the comprehensive plan, and having a definition for floor.

### **Audience Participation**

Jeff Boone, Venice resident, stated staff is faced with an impossible task because of the detail in the comprehensive plan, reiterated there has never been a debate on how to measure height, and displayed the Residential Multi-Family (RMF), Office Medical Institutional and Office Professional Institutional zoning districts noting conditional use in the code speaks of feet not stories or floors. He touched on the additional ten feet allowed for parking, the zoning code having a definition of story, talked about addressing parking that is part of the height calculation, recalled how the use of stories came about, questioned whether the suggested changes are consistent with the comprehensive plan, and suggested having guideline language in the comprehensive plan to clarify the definition of height.

Discussion followed on why the term “story” was used and concern with removal of the term “feet”.

Mr. Clark displayed the definition of story, reiterated it is consistent with the comprehensive plan, and stated staff will develop a variance process for height and the conditional use process for building height allowance.

Mr. Persson stated he is used to comprehensive plans that have both feet and stories, talked about the measurement of height, the LDC not being able to allow more height than the comprehensive plan, and noted this is a complicated issue.

Responding to commission questions, Mr. Clark stated there is no timeframe for the text amendment petition, talked about the importance of the LDC height measurement being consistent with the comprehensive plan, the conditional use density bonuses, and the gated community approvals being in the LDC.

Mr. Persson suggested determining the height per story for the purposes of affordable workforce housing, so long as it does not disagree with the code, and to have a numerical standard.

Discussion took place on adding the number of feet to a story or floor, whether to reference a definition, concern with how floor is defined regarding height, the height regulations in all other

districts, height measurement in the planning areas, whether there are story height limitations in the city, there being three different conditional uses, and defining story in the LDC for the purpose of awarding the density bonus.

Mr. Boone contended the problem is that zoning district height is defined in feet and noted the ten foot limitation for a story of undercover parking.

Mr. Clark displayed the conditional use height diagram for RMF 4 and explained height allowances.

Discussion continued on the board not being comfortable sending something to council that is confusing to the commission, whether stories are the issue or if it is the height of the building, whether the comprehensive plan mentions stories and feet for the planning areas, making the LDC consistent with the comprehensive plan, whether to change the comprehensive plan, whether to send the text amendment back to staff or send it forward to council with a feet limitation, and clarifying the definition of story or floor by adding a foot measurement.

Mr. McKeon noted how design has changed with customer requests such as higher ceilings per floor, and that the number of feet has to be considered.

Mr. Boone suggested using the term “feet” would be consistent with the comprehensive plan and the existing code.

Discussion ensued on how many feet should be specified, newer homes having 14 foot ceilings, possible RMF building heights approved by council, using the variance process for less than one story and conditional use for more than one story, whether to use ten feet as a standard figure for story, amending the definition of story to state ten feet to maintain the linkage with the comprehensive plan and the LDC, and the ten foot standard for determining whether a conditional use or variance is used.

Mr. Clark reviewed the discussion and recommended changes.

(3:22) Chair Snyder closed the public hearing.

Mr. Towery **moved** 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. 13-2AM with recommended changes. **Seconded** by Ms. Moore.

ROLL CALL: Mr. Shrauger, YES; Mr. Snyder, YES; Mr. Williams, YES; Ms. Moore, YES; Mr. Murphy, YES; Mr. Towery, YES; Mr. Graser, YES. MOTION CARRIED.