



MINUTES
PLANNING & ZONING COMMISSION
Regular Meeting/Public Hearing
Thursday, November 29, 2007 - 9:00 AM
City Council Chambers, Prescott, Arizona

I. CALL TO ORDER

Chairman Michelman called the meeting to order at 9:00 AM.

II. ATTENDANCE

MEMBERS PRESENT	OTHERS PRESENT
Don Michelman, Chairman	Tom Guice, Community Development Director
Tom Menser	George Worley, Assistant Community Development Director
Richard Rosa	Dick Mastin, Development Services Manager
Seymour Petrovsky	Jack Wilson, Mayor
Len Scamardo	Jim Lamerson, Council Liaison
George Wiant	Bob Luzius, Councilman
MEMBERS ABSENT	Kathy Dudek, Boards & Commissions Recording Secretary
Joe Gardner, Vice Chairman	

III. REGULAR ACTION ITEMS

(May be voted on contingent upon any related public hearing item below also being acted on unless otherwise noted).

1. Approve the minutes of the 11-08-07 meeting.

Mr. Wiant, **MOTION: to approve the minutes** of the November 8, 2007 meeting. Mr. Rosa, 2nd. **Vote: 5-0-1** (recused due to absence: Michelman).

2. PP07-006, Granite Creek Village located behind the Pine Cone Inn on White Spar Road. APN: 107-15-049 & 107-15-049B and totaling ± 14.58 acres. Zoning is Single-Family 9 (SF-9) Planned Area Development (PAD). Request site plan approval for 36 residential lots. Owner is Dunbar Stone Company. Applicant/agent is Phil Wiens for Timber Creek Development/Naus Construction. Community Planner is Steve Gaber.

Mr. Menser recused himself from this item due to a conflict of interest.

Mr. Rosa, **MOTION: to postpone PP07-006, Granite Creek Village**, to a date uncertain. Mr. Wiant, 2nd. **Vote: 5-0-1** (recused: Menser).

IV. PUBLIC HEARING ITEMS

(May be voted on December 13, 2007 unless otherwise noted).

3. **In-Lieu of Parking Fee, *Land Development Code*, Section 4.9.** Presentation and discussion of proposed amendment to the *Land Development Code*. George Worley, Assistant Community Development Director. (May be voted on December 13, 2007).

Mr. Worley reviewed the proposed changes and noted:

- the previous two options that were discussed have been replaced with a third compromise option;
- the new option exempts parking requirements for any building constructed in the Downtown Business District (DTB) before 1968;
- the requirements for new construction in the DTB allow for an in-lieu fee for parking;
- the Unified Development Committee (UDC) felt that the compromise is appropriate;
- both the Prescott Downtown Partnership (PDP) and the Chamber of Commerce (COC) are being apprised of the compromise;
- instead of demolition, historic buildings will benefit because the in-lieu fee provides an option for many businesses who could not relocate downtown due to the lack of parking;
- businesses will have the option of acquiring requisite parking or paying the in-lieu fee;
- the in-lieu fee will be determined by City Council via a resolution;
- City Council has the authority to waive the fee if deemed appropriate; and,
- the City is awaiting comments from both the PDP and the COC.

Mr. Scamardo stated that the compromise takes into consideration Prop. 207; consequently, the compromise does not take away a previously-granted property right.

Mayor Jack Wilson, 1514 Eagle Ridge Road, asked Mr. Worley about the pre-1968 code exemption and wondered if it [the change in the *LDC*] would hold when an adaptive reuse of a building occurs. If a change was made from a use that didn't currently require parking to a use that had parking requirements, such as condominiums or timeshares which would require parking, what would happen? [Mr. Worley: the way the language in the current proposal is, yes, it would apply]. Mayor Wilson stated he would have a problem with that; consequently, adaptive reuse and change of use should be dealt with.

Mr. Menser indicated housing was originally excluded from the process [Mr. Worley: that is correct up until this draft. Under the *LDC*, housing is not exempted from parking requirements in the DTB, and residential uses are required to have parking. The amendment would allow the payment of in-lieu of fees for up to 20 parking spaces for housing. However, that is only applicable if the building is not exempted; consequently, if the building was built prior to 1968, the building would be exempted from parking requirements].

Mayor Wilson indicated he has a problem with the pre-1968 exemption. Physical parking spaces are not possible. A change in use for residential housing should trigger an in-lieu fee.

Commissioners queried and remarked on:

- converting an existing apartment in the DTB to condominiums;

- downtown condominium owners may prefer to walk rather than drive and, therefore, require fewer cars;
- a marketing impetus may exist to provide parking spaces for condominiums;
- residential, retail and hospitality were exempted from a previous code;
- granting a new use must be looked at in light of Prop. 207; and,
- the language needs to be looked at again because of the opinions expressed of not exempting parking requirements.

Mr. Jim Lamerson, Councilman, 955 Angelita, cautioned that care should be taken when creating new property rights in regard to Prop. 207. The General Plan creates an impetus for City Council to encourage affordable housing and redevelopment for working persons in the DTB area. Caution should also be taken to protect Council's flexibility and allow Council the authority to waive the in-lieu fee.

No action taken. Voting on this item may take place at the December 13, 2007 meeting.

4. **Guest Quarters, Land Development Code, Section 2.3 Use Table and Section 2.5.6 Guest Quarters.** Presentation and discussion of proposed amendment to the *Land Development Code*. George Worley, Assistant Community Development Director. *(May be voted on December 13, 2007).*

Mr. Worley gave a brief synopsis and noted:

- the updated proposal changes the way guest quarters are addressed;
- accessory buildings aren't affected any differently than they presently exist;
- the proposal is to limit guest quarters to 600 square feet (SF) or less as an administrative process/property right providing both zoning and building code requirements are met;
- anything over 600 SF would require a conditional use process that would allow advertisement, noticing to the neighbors and a review by the Board of Adjustment (BOA);
- the intent is that larger buildings have more potential for an adverse impact on the neighbors;
- the neighbors need to be involved and know what is going on with the larger building requests; and,
- guest quarters of 600 SF or less would be able to go through an administrative process.

Commissioners queried and remarked on:

- was the construction on the case that perpetrated the proposed amendment started [Mr. Worley: no; however, if the building is attached, it does not require a conditional use permit. The guest quarters may be attached via a roof connection or breezeway; thus, the applicant can circumvent the conditional use permit process. As long as it is attached, it is a legal use. The "straw that broke the camel's back" was a request for a very large, detached structure. With most things in the *LDC*, scope and size is the driving force in decision making, *i. e.*, how much impact it will have on neighboring property. This proposal looks at how big the project will be and what the impact is];
- does any detached building have to go before the BOA [Mr. Worley: no. The *LDC* specifies guest quarters only; if a garage, it does not have to go to BOA providing it meets all code requirements];
- a definition of "guest quarters" needs to be made;
- the building department's need for defining "attached" and "detached" [Mr. Worley: there

- is a definition of guest quarters in the *LDC*;
- the previous code's disallowing kitchen facilities; and,
- under the present *LDC*, cooking facilities are permitted.

Mr. Scamardo would like to see cooking facilities being disallowed.

Mr. Worley noted that the City receives complaints from neighbors who are impacted; subsequently, Code Enforcement staff will investigate the complaint.

Mr. Jim Lamerson, Councilman, 955 Angelita, believes the impetus between the community and the negative inventory of affordable housing with regard to "Granny flats" and efficiency apartments to accommodate certain kinds of family members, etc., on your own property, is one of the issues why we are discussing several forms of being able to use property somewhat differently than rental units with regard to going out and putting in a commercial enterprise. Again, Councilman Lamerson would caution the Commission to be very diligent in what prohibits somebody from doing what they wish to do on their property. This addresses a desire within the framework of the General Plan that was overwhelmingly passed by 65% or 70% of this community to look at any and all options to address the housing issue in Prescott.

Mr. Menser agrees with Councilman Lamerson and noted that this is an option for more oversight by the BOA; i.e., in certain situations let the BOA look at the project and the impact to the neighbors.

Councilman Lamerson reminded the Commission about the ADA and Federal Fair Housing Acts, etc., to be diligent into what is built into code. Certain types of uses cannot be prohibited by the City. When a right is established, it cannot arbitrarily be taken away.

Mayor Wilson shares a concern with Councilman Lamerson in having a supply of affordable housing in the community. The SF-35 issue also needs to be looked at.

Mr. Scamardo stated that the problem is "what constitutes a rental unit" and "what constitutes a guest house". The language needs to be clearly defined. Key verbiage should include that the unit cannot be rented.

Mr. Worley proffered that the purpose of the proposed amendment is to take a look at the issue before a structure is built.

Mr. William Kiley, 886 Vallejo Vista Road, who is a neighbor of the "straw that broke the camel's back", noted:

- he asked Mr. Worley if the person requesting the property wanted a 1500 SF detached closet if it would go through [Mr. Worley: it could];
- the neighborhood of the contentious request is in a SF-9 zoning district, and the size met the lot coverage requirements;
- the owner of the property is renting the main house and wanted a guest house which led the neighbors to be concerned with the impact of the size the building as well as the great potential to also become a rental;
- would like to ensure that a request does not "slip" through the process by just attaching the structure to the main house;
- the BOA turned down the application because of the parcel size;
- the neighbors are asking for the opportunity to have notice, review and the opportunity to comment;

- emphasis should be on neighborhood aesthetics rather than on size whether it is a 1500 SF closet or a 1500 SF guesthouse; and,
- the need exists for prohibiting a massive structure's simply being attached to a house and thereby circumventing the impact on the neighborhood.

Mr. Menser indicated that this is another layer of control that the City would have; however, if all the requirements are met, the property owner has a right to build on the lot. Aesthetics cannot be legislated. The BOA is required to take into consideration the compatibility.

Mr. Scamardo noted that the word "detached" is being eliminated in the request for the *LDC* amendment. The issue of size has been limited to 600 SF or less. The public would be required to be notified of a guest quarter request over 600 SF. One of the key provisions is that the structure shall not be utilized as a separate rental structure.

Mr. Worley proffered that there is a possibility that accessory structures could be addressed differently. Under the *LDC*, the accessory structures are the broader category; and, a subset of the broad category is guest quarters. Through the process, only the guest quarters have been addressed.

Ms. Ellen Kiley, 886 Vallejo Vista Road, asked if anything such as a greenhouse, large storage unit, etc., will be looked at.

Mr. Scamardo remarked that the goal is to strengthen the language so that greater oversight with regard to large guest quarter requests occur.

Councilman Lamerson noted that definitions may be where problems exist, such as the definition of "guest". Private property rights extend not just to the property that is being changed, but also to the properties next door and 360-degrees. When someone buys into an area that is zoned to SF-9, SF-18, SF-35, etc., [the property owners] have every right to expect that the properties around them, which were also zoned in that category, continue at that same level. Single-family may not mean "with rental units".

No action taken. Voting on this item may take place at the December 13, 2007 meeting.

V. CITY UPDATES

The Planning & Zoning Commission meeting on December 27, 2007 will be cancelled due to the holidays.

Additional modifications to the Land Development Code (*LDC*) will come before Planning & Zoning on December 13 for action in January, 2008. Site Lighting and Transitional Housing are two of the items.

Sediment and Erosion changes will take place at City Council via a resolution. A reference to the resolution will be placed into the *LDC*.

VI. SUMMARY OF CURRENT OR RECENT EVENTS

None.

VII. ADJOURNMENT

Chairman Michelman adjourned the meeting at 10:18 AM.

Don Michelman, Chairman