

**Topic:** Public Hearings

**Date Introduced:** November 24, 2009

**Why on the list:** Concern was raised by residents in regard to confusion over multiple public hearings during the development review process.

**History:** The Planning Commission began holding public hearings in 2007, at the request of the City Council; with the possibility of the City Council no longer holding an official public hearing at a City Council meeting. However, the Council has continued to hold its own public hearings on development projects.

**Decision Points:**

1. Duplication of public hearings.
2. Added cost of mailing and notification for two public hearings.
3. Stated confusion expressed from residents adjacent to projects in regard to when they should testify for or against a project.

**Options:**

1. Continue with the existing two public hearing process.
2. Recommend that the Planning Commission no longer hold public hearings if the City Council wishes to continue with having a public hearing.

## Planning Commission Meeting Minutes of November 24, 2009

**TOPIC:** Public Hearing During the Development Review Process

**DATE INTRODUCED:** November 24, 2009

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### **Discussion 11/24/2009**

#### **Introduction:**

Planner Teague said the topic of public hearings came up at the last work session when public input was taken. At that meeting concern was expressed that both the Planning Commission and the City Council conduct public hearings. This has created some confusion for residents on which meeting to attend if they have a conflict. Planner Teague explained in 2007 the City Council amended the ordinance to have the Planning Commission conduct public hearings on development proposals. The reason the Council amended the ordinance was to help tighten up their meetings. However, since this change, the City Council has continued to conduct public hearings, which is a duplication that includes additional Sun Current legal postings and multiple mailings. Planner Teague suggested the following:

1. Continue as is.
2. Recommend the Planning Commission no longer hold the public hearing, if the City Council wishes to continue having a public hearing.

#### **Discussion**

A discussion ensued with the Commission expressing the following:

- There should only be one body conducting the public hearing.
- Have the Planning Commission conduct all public hearings on planning matters; however, if the Planning Commission thought that an additional public hearing was warranted for a specific proposal they would recommend to the Council they also conduct a public hearing.
- Keep as is. Members of the Commission expressed reluctance in eliminating them from conducting the public hearing. If the City Council indicates they also want to conduct public hearings on planning issues both the Commission and Council should conduct them.

The discussion continued with the Commission noting that only the City Council can hold a public hearing on ordinance changes; however reiterated their opinion that if one of the goals of updating the ordinance is to streamline and clarify the

development review process the Planning Commission should be the body that holds the public hearing. Having one body conduct the public hearings is less costly and it lessens the confusion for the developer and the public.

Commissioner Grabel said if this discussion is about what the Planning Commission as a body would like to see happen it would be that the Planning Commission conducts the public hearing.

**Action:**

**Preliminary Draft Recommendation to eliminate the City Council from holding public hearings on development issues unless a specific referral is requested by the Planning Commission for the Council to hold a public hearing.**

The discussion turned to an issue raised by a resident on the option of a rebuttal period for residents during the public hearing. Commissioner Schroeder said he is uncomfortable with having that as an option. He said in his opinion any decision made by the Planning Commission should be based on facts.

Commissioner Staunton asked if a resident has an additional question after the public hearing is closed how would that question be answered. It was noted that there has always been instances during a public hearing when it was re-opened to accommodate a question(s). Chair Fischer acknowledged there have been a number of hotly contested issues within the community, adding it is difficult to achieve a fair and balanced meeting; however, civility must be maintained to prevent back and forth acquisitions from being raised without the benefit of fact checking. Continuing, Chair Fischer added it can be frustrating for residents when the hearing is closed and the Commission continues to ask questions of the developer. Commissioner Schere pointed out in her opinion that the Chair does a good job of summarizing concerns expressed by the residents.

Commissioner Schroeder suggested that as the ordinance updating process continues the ordinance could require that an applicant hold a neighborhood meeting prior to the meeting of the Planning Commission. This could diffuse any issues. Planner Teague interjected that any change in meeting format would need to be approved by the City Council.

In summary Commissioners stressed that the goal of a public hearing is to provide facts, discuss the issues and have a civil meeting

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**TOPIC****Public Hearings****DATE INTRODUCED****November 24, 2009****CONTINUED DISCUSSION****December 9, 2009**

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**Introduction**

Chair Fischer noted that at the past meeting of the Ordinance Update Committee it was suggested that the Planning Commission hold the public hearing for development projects with the City Council taking public comments, but not holding the “public hearing”. Commissioner Staunton agreed with that statement and added in his opinion it is important to make a recommendation on who should hold the public hearing on development projects in order to clarify the planning process.

**Discussion**

City Attorney Knuston told the Committee that in the cities he works with the Planning Commission holds the public hearing on development projects. He further noted that the City Councils he works with may, or may not; take public input at City Council meetings.

Mr. Bohan commented that in his opinion having both the Planning Commission and City Council hold the public hearings is a duplication of effort creating dysfunction within the process. Treating the Planning Commission as advisory only creates a “practice run” climate before the final City Council public hearing.

A brief discussion ensued with Members agreeing a clear recommendation needs to be drafted on the public hearing process. Members also noted in many instances the developer is required to attend numerous meetings to “get a project through” the process (Planning Commission, City Council, Transportation, Zoning Board of Appeals, HPB). Multiple meetings elongate the process increasing the number of presentations and time spent on a project. It also is confusing for residents.

The discussion continued as to control during the public hearing while meeting the developers and residents expectations. City Attorney Knutson stated in his experience the body that holds the public hearing controls the process as to when, how, and how often parties are allowed to speak. Mr. Knutson stated most cities do not re-open hearings once it has been closed or offer a time for rebuttal as suggested at a previous ZOUC meeting. Continuing, Mr. Knutson stressed that a public hearing is not a dialog or debate between the Commission, developer and/or the public. Concluding Mr. Knutson said the goal of each

hearing is to have an orderly fair meeting that ultimately must come to an end and a decision must be made.

Chair Fischer said the problem he sees is that after the public hearing is closed and the Commission redirects questions to the developer the public feels slighted if they can't continue to weigh in, especially if they disagree with the developer's answer. Commissioner Schroeder asked Mr. Knutson if there is a "legal" outline on how to conduct public hearings. Mr. Knutson said to the best of his knowledge how to run a public hearing is not legislated; however, there should be consistency in the approach cities take with running a public hearing. Mr. Knutson said that the body conducting the public hearing could "make their own rules"; however, as previously mentioned the "rules" to follow should be consistent and should be available for review. Mr. Knutson said the Commission bylaws being drafted during this process should contain language on conducting a public hearing.

#### **Action**

**The ZOUC agreed to a final draft recommendation that one public hearing should be held on development applications. The Planning Commission should be the group to hold the public hearing. The City Council could still take testimony or comment during their review, but the official public hearing would be held with the Planning Commission.**