

**Planning Commission Minutes
Community Chambers
Wednesday, November 18, 2009, 7:00 p.m.**

Commissioners Present: Mark Braly (Chairperson), Ananya Choudhuri (Alternate),
Lucas Frerichs, Kris Kordana,
Mike Levy (Vice-Chairperson), Terry Whittier

Commissioners Absent: Greg Clumpner, Rob Hofmann

Staff Present: Mike Webb, Principal Planner; Eric Lee, Assistant Planner;
Lynanne Mehlhaff, Planning Technician

1. Call to Order

Chairperson Braly called the meeting to order at 7:02 p.m.

2. Approval of Agenda

The agenda was approved by consensus.

3. Staff and Commissioner Comments (No action).

Mike Webb, Principal Planner, gave an update on the City Council meeting regarding the Willowbank Park proposal.

Other announcements for upcoming meetings were made.

4. Public Communications

There were no public communications.

5. Consent Items

- A. **Planning Commission Minutes of June 24, 2009**
- B. **Planning Commission Minutes of July 8, 2009**
- C. **Planning Commission Minutes of September 9, 2009**

Action: Commissioner Whittier asked for a revision to the September 9, 2009 minutes regarding Vice-Chairperson Levy's comment on page 8, "to direct staff to ground truth the assumptions in the schematics as identified..." Commissioner Whittier would like the term "ground truth" clarified so it will be more understandable to people in general terms. Vice-Chairperson Levy said it was acceptable to re-word it to say "to direct staff to **verify** the assumptions in the schematics as identified as staff alternative plan and neighborhood revision to the staff alternative plan..."

Lynanne Mehlhaff, Planning Technician, read off a revision for the September 9, 2009 minutes by Commissioner Hofmann who was absent. The language on page 8 should state "Commissioner Hofmann stated it was inappropriate and unfair for the commission to ask the applicant to incur more time and expense to establish that an alternative to their proposal was infeasible when the Commission had just decided that the project should move forward as proposed." Commissioners agreed with the proposed language change.

Commissioner Whittier moved approval of all three sets of minutes with the two corrections as noted above. Commissioner Kordana seconded the motion.

AYES: Whittier, Kordana, Choudhuri, Levy, Braly, Frerichs

NOES: None

Abstain: Levy on the July 8, 2009 minutes due to his absence.

6. Public Hearings

A. PA #23-09, 3608 Chiles Road, City Well #32 Expansion, Conditional Use Permit #05-09, Design Review #06-09; (Eric Lee, Assistant Planner)

Public Hearing to consider approval of a Conditional Use Permit to install a manganese treatment system at the site of City Well 32 in south Davis. Well 32 was constructed as one of the replacement wells for four wells that were removed from service. A Conditional use Permit and Design Review for the Well 32 site were previously approved by the Planning Commission on March 14, 2007. The well was constructed, but additional water treatment equipment is needed to meet requirements of the California Department of Public health before the water can be used.

Eric Lee, Assistant Planner, presented the staff report.

Cameron Gibbs, Associate Engineer from Public Works, answered questions regarding the run times of the pump and equipment for the well.

Chairperson Braly opened and closed the public hearing.

Action: Commissioner Whittier moved approval of the Conditional Use Permit and Design Review. Commissioner Kordana seconded the motion. Commissioner Choudhuri added the hours of construction noise as a condition. Vice-Chairperson Levy moved to strike the fragment sentence from the staff report on page 15. Commissioners Whittier and Kordana approved of the amendments to the motion.

AYES: Choudhuri, Whittier, Levy, Kordana, Frerichs, Braly
The motion passed unanimously 6 to 0.

7. Business Items

A. Residential Fence Standards; (*Eric Lee, Assistant Planner*)

Eric Lee, Assistant Planner, presented the staff report regarding existing fence standards.

Commissioner comments during discussion of the staff report:

- Would like to see definitions for fence and wall so as to differentiate between them.
- Suggested that rather than consider whether it is a buildable area or not, if it is a fence, then it has to follow the standard fence standards.
- It isn't whether it is a fence or a wall; it is whether it is a fence or a wall as part of the house.
- The question is when you have a structure that is attached to the house and open, how do you define when it is part of the house versus something else? A fence or wall separates two properties by being on a property line usually.
- We shouldn't allow someone to just build a 20 foot wall on a property line just because it is in the buildable area.
- On a zero lot line, it doesn't make sense to allow the maximum fence height to be at the allowable height of the main structure. They serve different purposes.
- Several Commissioners said the City of Vacaville defined fence nicely and straightforward. If there was an exception then a conditional use permit should be applied for in that case. This definition would also be clear for a zero lot line house.
- There is a difference between a load bearing wall and a free standing wall. There is a difference between walls, fences and hedges that are used to divide property lines versus walls that are part of the dwelling structure as load bearing.
- Would like to end up with a distinction between an exterior patio room with no roof and a wall of a house so you can't build a wall up to 20 feet to enclose a patio.
- An exterior patio room with no roof should meet fence height and with additional permits you could request permission to go above fence height in the buildable area as long as it isn't load bearing.

- We should decide on who should have the power of deciding whether fences or walls exceed the fence height whether by the City or the Commission. There should be a review process for height exceptions.
- There is no law/rule for fence heights in the buildable area and this is a problem.
- The definition of fence by Santa Rosa was pretty good; we should consider that one.

Chairperson Braly opened the comment period.

John Swann, resident who was affected by the neighbor who built the wall, clarified that the neighbor replaced his six foot fence with a wall around a courtyard. He said there are rules for fences in place which work. But it is the buildable area that needs to be addressed as shown on page 6 of the staff report. There are no rules for fences along the buildable area. His preference was to maintain the same fence standards but amend the zoning to clarify the restrictions to cover the entire property. This makes common sense.

Diane Swann said that if the wall had been part of the building, an Architect told them it would have had to have been set back 3-5 feet because it has an opening and violates the fire code. So the wall didn't meet the seven foot high restriction of the Zoning Ordinance and didn't meet Building Code.

Steve Chapman, a Davis resident, said the Vacaville definition was very clear and was in support of that definition. His only concern was with the exceptions, the fence rules with limitations should continue but have some exceptions granted.

Chairperson Braly closed the public comments.

Commissioner Braly polled the Commission by asking if anyone felt there should be "no change" to the current standards that we have according to Table 1 in the staff report. None of the Commissioners responded, thus no support for "no change."

Commissioner Choudhuri said we need to give direction to staff to see definitions and then see the pros and cons of the process and whether decisions are left at a staff level or come back to Planning Commission. She wanted more information brought back to the Commission in order to make a decision.

Chairperson Braly asked the Commission if there should be changes to the interpretation for existing standards (Table 1, Option #2). Commissioners had no comment.

Chairperson Braly asked the Commission option #3, Table 1, "Maintain same fence standards but amend zoning to clarify questions."

Commissioner Frerichs said add definitions for walls/fences/hedges or separate definitions for all three. Commissioner Kordana agreed and supported the City of Vacaville definition of a fence. Chairperson Braly supported the Vacaville definition but wasn't sure if it would address the Village Homes case of a wall that isn't a part of a house. So we need a standard or clarification on that.

Vice-Chairperson Levy said if a wall is part of a house then he was opposed to telling people what their homes should look like or whether they had to have a roof over it. The FAR requirements adequately address those issues. If a free-standing wall was attached to the house, then he was interested in considering restrictions on those beyond the current restrictions listed for accessory structures.

Chairperson Braly asked the Commission Option #4A, Amend Zoning to provide limited flexibility for fence heights". Some Commissioners felt this was needed.

Chairperson Braly asked the Commission about Option #4B, Amend zoning to provide Greater flexibility for fence Heights." There was no comment from Commissioners.

Chairperson Braly asked the Commission about Option #4C, Amend zoning to provide maximum flexibility for fence heights." There was no comment or support for this option.

Action:

Commissioner Kordana moved to adopt Option #3, "Maintain same fence standards but amend zoning to clarify restrictions" which means no fence, wall or hedge may exceed 7 feet in height on any residential property and adopt the current Vacaville definition of fence which reads "Fence means an artificially constructed barrier consisting of any permitted materials, other than plant materials, intended to form an enclosure, mark a boundary, prevent intrusion, or provide a screen." Commissioner Frerichs seconded the motion.

Commissioner Choudhuri asked if there was a difference between fence and wall.

Commissioner Kordana said no, there is no difference. He wanted a clear definition and if there were exceptions, people would have to go through a review process and make a case for it.

Vice-Chairperson Levy said he would support the motion if direction was included to have staff bring back a proposal for atriums that are part of the structure of the house or attached in some way. He wanted to distinguish circumstances where there should be rules that address the type of structures such as atriums or similar enclosed outdoor structures on how the City should regard those structures. Commissioner Kordana would not accept the amendment to the motion.

AYES: Braly, Kordana, Frerichs

NOES: Choudhuri, Whittier, Levy

The motion failed 3 to 3.

Vice-Chairperson Levy moved the previous motion of adopting Option #3 with the Vacaville fence definition and direct staff to bring back proposals on dealing with the types of situations that were discussed. Commissioner Choudhuri seconded the motion.

AYES: Choudhuri, Whittier, Levy, Kordana, Frerichs, Braly
The motion passed unanimously 6 to 0.

Commissioner Whittier mentioned that the previous situation in Village Homes was similar to an Eichler home where an atrium was enclosed by a wall and made part of the house. He asked staff to look into exceptions that could cover this particular situation. Staff responded that there are very few instances of situations that aren't covered by existing zoning. Staff could come back with options to address these situations.

Staff asked for clarification on the motion of whether or not it was the Commission's desire to integrate any different exception or exemption process than what we currently have. Currently we have the Minor Modification process for up to 10% deviation.

Commissioner Kordana said it was not the intent to change existing procedures because it would needlessly complicate the entire process. Commissioners agreed.

8. Informational Items

A. Planning Commission Schedule

Mike Webb said the next meeting was scheduled for December 16, 2009 and went over the future schedule.

Vice-Chairperson Levy made a motion to have an item on the agenda in January or February for an update on the Green Building Ordinance specifically for resale properties (point of sale). Commissioner Frerichs seconded the motion. He wanted a workshop and have experts come in to inform the Commission as an educational benefit of what was feasible and what was being done elsewhere.

AYES: Choudhuri, Whittier, Levy, Kordana, Frerichs, Braly
The motion passed unanimously 6 to 0.

Commissioner Frerichs said he would also like a joint meeting with the City Council and wanted to know when that would occur. Staff said they would contact the City Manager.

9. Staff and Commissioner Comments (continued).

Commissioner Frerichs asked about having some more current info of upcoming projects such as was passed out at the Finance & Budget Commission meetings. Staff said there was a link on-line at the City's website to the "Current Projects Update" list that could be passed on to Commissioners.

10. Public Communications (continued).

There were no public communications.

11. Adjournment to the next regular Planning Commission meeting to be held on Wednesday, December 16, 2009 in the Community Chambers (23 Russell Boulevard).

The meeting was adjourned at approximately 9:07 p.m.