

**Planning Commission Minutes
Community Chambers
Wednesday, February 10, 2010, 7:00 p.m.**

Commissioners Present: Mark Braly (Chairperson), Greg Clumpner, Lucas Frerichs, Rob Hofmann, Kris Kordana, Mike Levy (Vice-Chairperson), Terry Whittier

Commissioners Absent: Ananya Choudhuri (Alternate)

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 7:00 p.m.

2. Approval of Agenda

Approval of the agenda was moved by Commissioner Kordana, seconded by Vice-Chairperson Levy and approved by consensus.

3. Staff and Commissioner Comments (No action).

Mike Webb, Principal Planner, updated the Commission that the City Council approved the Carlton Plaza Senior Care facility at their last meeting.

Chairperson Braly said the upcoming Built Environment Workshop was really shaping up with good speakers lined up. He extended the invitation to the Natural Resources Commission and the public to attend the workshop.

Mike Webb said staff would post the City's website and notice the workshop in the Davis Enterprise.

4. Public Communications

There were no public communications.

5. Consent Items

- A. Planning Commission Minutes of December 16, 2009**
- B. Report of Subdivision Committee action on 1311 Drake Drive: Parcel Map 4981; (*Jennifer Border, Public Works Engineer*)**
- C. 525 Rowe Place, Midtown Veterinary Clinic: Vacation of a Five Foot Easement (*Jennifer Border, Public Works Engineer*)**

Will Marshall, Assistant City Engineer, explained who the members of the Subdivision Committee were and explained the Commission's pervue of Parcel Map 4981.

Action: The Commission voted to approve the consent items by consensus. The minutes were not voted on since they weren't ready at this time.

AYES: Clumpner, Whittier, Levy, Kordana, Hofmann, Frerichs, Braly
The motion passed unanimously 7 to 0.

6. Public Hearings

- A. PA #34-09, Zoning Ordinance Amendment #01-09, Zoning Ordinance Amendment for Fence Standards and Omnibus Zoning Amendments; (*Eric Lee, Assistant Planner*)**
Public Hearing to consider approval of minor amendments and technical corrections to various sections of the city Zoning Ordinance (Municipal Code Chapter 40) to include: adding a definition and clarification for residential fence standards; changing the expiration and extension dates for minor modifications to be consistent with other entitlements; adding language to conditional use permits to allow denials without prejudice; and other minor corrections such as elimination of redundant language, correction of typo mistakes, and deletion of outdated references.

Eric Lee, Assistant Planner, presented the staff report. He asked that the Commission consider changing the fence language on page 2, 1(c), of the staff report by adding the following language "Fences, walls and hedges may be located anywhere on a property behind the front setback up to a maximum height of seven feet, except as noted ..."

Commissioners asked questions and discussed hedges and whether to keep that in the definitions.

Commissioner Kordana said the advantage of the simple definition that a fence is a fence up to 7 feet was that it was easy to understand, straight forward and simple. If anyone wanted to deviate from that, then they could apply for a conditional use permit. The exceptions could be

considered on a case by case basis rather than come up with a comprehensive set of rules to cover every situation which could get us into tricky situations in the future.

Mike Webb described the process for second units in the code where through the Conditional Use Permit process it allowed someone to go up to two stories or reduce the rear setback through a public hearing process. He also described the administrative Design Review process with notification to neighbors and an appeal period.

Commissioner Kordana thought that building a fence or wall higher than seven feet wasn't the norm so the fact that someone would have to go through the CUP process would discourage the casual applicant from building something higher than seven feet. If there was a valid reason for the height going above seven feet, the CUP process could be pursued. He thought this a simpler approach but would support staff recommendation of option #2.

Chairperson Braly opened the public hearing.

Dianne Swann said she agreed with Commissioner Kordana regarding option #1 which stated that all fence height maximums would be seven feet unless you go through a process for an exception. She felt option #2 was ambiguous and would cause problems.

Steve Chapman said he supported the clearer definition and procedure of option #1.

Chairperson Braly closed the public hearing.

Vice-Chairperson Levy said it wasn't a matter of not being able to design City of Davis guidelines for circumstances because we have a complex set of ordinances currently. He didn't agree that just because someone wanted something different, they would have to get a conditional use permit. He felt it was oppressive and the City didn't have the resources to review exceptions that would come forward with the option #1 process. He supported option #3.

Commissioner Clumpner asked about the definitions of fence. He said we don't need the language "other than plant materials". It is easier to understand without the confusion of "other than plant materials". Commissioners Kordana and Braly agreed. If it looks like an artificially constructed barrier then it is. He also suggested deleting the word "hedges". Commissioners discussed deleting the word "hedges" and decided to leave the word in due to the corner lot safety issue.

Action: Vice-Chairperson Levy moved approval of option #3 because the FAR or size of the house is considered with zoning on the lot based upon the size of the atrium. Chairperson Braly seconded with the amendment to the fence definitions to take out plant materials in the general definition but leave in the word hedges in (C)(3) for corner lots. Vice-Chairperson Levy

agreed and also accepted the staff amendment to the definition to add “behind the front setback” to item (c).

Commissioner Kordana pointed out that this option #3 would be designing something around the exception rather than the norm. It would leave it open to potential misinterpretations and abuse to the point where someone walls in their property with a twenty foot wall. He couldn't support option #3. He would rather have the power of the Design Review decision reside with the City for an exception and not with the builder.

Vice-Chairperson Levy pointed out the ambiguity in the columns of the staff report with the language of patio walls versus atrium/courtyard walls and requested that the terms be corrected.

Vice-Chairperson Levy clarified his motion that an atrium/courtyard was “an outdoor area attached to a dwelling, enclosed on all sides by “solid” walls and open to the sky” and this should be allowed. If it is something else, then it should have a seven foot limitation. He wanted the Commission to ask staff to bring this back in the form of an ordinance.

Commissioner Kordana substituted the original motion for option #1 with the modification of the definitions of fence by striking the words “other than plant materials”. Commissioner Whittier seconded the motion.

AYES: Whittier, Kordana
NOES: Levy, Frerichs, Hofmann, Braly
Abstain: Clumpner

The motion failed 2-4-1.

Commissioner Hofmann substituted the original motion and moved option #2 with the prior amendments to the definitions. Commissioner Clumpner seconded the motion. Vice-Chairperson Levy made a friendly amendment that the number of walls be increased from one to two walls. Commissioner Hofmann didn't accept the amendment.

Vice-chairperson Levy substituted the substitute motion to move option #2 with the corrections to the definitions but modify option #2 to be two walls instead of one wall to enclose an atrium so it could be on a corner of a house. Chairperson Braly seconded the motion.

AYES: Clumpner, Whittier, Levy, Braly
NOES: Frerichs, Hofmann, Kordana

The motion passed 4 to 3.

Staff explained that the language for the changes would come back in a subsequent meeting and the Commission could vote on the exact language for ordinance amendments then.

Commissioners discussed the previous motion and clarified what the vote was attempting to solve regarding atriums/courtyards and walls.

Commissioner Frerichs pointed out that it wasn't permissible to do too many substitute motions. He perceived there were too many motions on the floor. There was confusion on the last motion of what it meant.

Commissioner Whittier said he now changed his vote because he was confused on what was voted on previously and wanted the record to show that.

Mike Webb said the action tonight was meant to receive general direction from the Planning Commission on what staff should come back with for the Commission to approve in a future ordinance. This was not to be a formal action tonight for City Council. Staff could come back with two different options and do a straw poll right now.

Commissioners agreed that the Commission was split on two of the options, option #1 and option #2. Commissioner Clumpner asked that staff bring back language that would have two separate definitions, with one having three walls and the other with two walls.

Vice-Chairperson Levy ask staff to bring back more language to address the concern that whatever was intended to be an atrium or enclosure of part of a house couldn't be misused for someone to stick up a tall fence that wasn't a part of the house.

Staff responded that this item will come back with different options and language to describe everything as clearly as possible.

7. Business Items

There were no business items.

8. Informational Items

A. Planning Commission Schedule

9. Staff and Commissioner Comments (continued).

Mike Webb said staff could bring back the fence ordinance amendments item on March 24th.

Commissioner Clumpner said the City of Davis is offering composting classes where bins and starter sets are given. He wanted to let people know in case they were interested.

Commissioner Frerichs said he has been the Finance and Budget Commission liaison but has not been able to attend those meetings and wanted to see if anyone else wanted to take it over for him.

There were no volunteers at this time.

10. Public Communications (continued).

There were no public communications.

11. Adjournment to the next regular Planning Commission meeting to be held on Wednesday, February 24, 2010 in the Community Chambers (23 Russell Boulevard).

The meeting was adjourned at approximately 9:01 pm.