

MINUTES

CITY PLANNING COMMISSION

May 22, 2018 (Special Meeting)

Present: Polly Weir (Chair), Desmond Baker (Vice-Chair), Lloyd Budd, Joseph Chickadel, Anthony J. Hill and Tanya Washington (Commission Members); Matt Warren (Law); and Herb Inden, Gwinneth Kaminsky, Tim Lucas and Gemma Tierney (Planning).

Polly Weir convened the meeting at 6:03 pm.

PUBLIC HEARING

Resolution 15-18: A proposal to amend Chapter 48 of the City Code (Zoning Code) to make the following eleven changes for the purpose of repealing certain provisions that are no longer necessary or appropriate, and to amend sections that require clarification or updating: (1) under Section 48-443, eliminate the dedicated parking space requirement for apartment houses in C-3 and C-4 districts; (2) under Section 48-212, eliminate the apartment house specific FAR in C-4 districts, so that the applicable FAR is the same for all uses in C-4 districts; (3) under Section 48-473, replace a defunct cross reference to the Building Code with applicable language to improve clarity; (4) under Section 48-38, allow the Zoning Manager to approve reestablishment of a nonconforming use when the respective property has been under active renovation during the period of non-use to make this process more efficient; (5) under Section 48-39, adjust the time required for permits to be pulled to repair a property damaged by fire to make the timeline more practical; (6) under Section 48-286, allow parks and playgrounds owned or operated by a nonprofit institution or community association in O zoning districts; (7) under Section 48-511, provide information regarding storm water management best practices and storm water credits to promote better storm water management in nonresidential parking lot design; (8) under Section 48-530, clarify that landscaping requirements apply to all interior and perimeter landscaping, and address the illegal removal of street trees; (9-10) under Sections 48-371 and 48-373, remove references to a waterfront development permit; and (11) under Section 48-339, add a special exception use to permit trade-like businesses in W-4 zoning districts with the approval of the Zoning Board of Adjustment. Zoning Action 550-18.

Tim Lucas from the Department of Planning and Development presented the Department report for Resolution 15-18, which addresses eleven proposed amendments to the City's Zoning Code (Chapter 48 of the City Code). His presentation was accompanied by a series of slides. Mr. Lucas began by providing some background on the proposed amendments. He stated that City Council, the Mayor's Office, and City Departments have begun a multi-phase initiative to update

and clean up the City's Zoning Code, and that the present amendments represent the first phase of this effort. He noted that the City Council ordinance recommending the eleven amendments is being sponsored by Council President Hanifa Shabazz and Council Member Rysheema Dixon and is to be introduced at the June 7, 2018 City Council meeting.

Mr. Lucas said that the eleven proposed amendments are for the following eight portions of the Zoning Code:

1. Off-Street Parking (Section 48-443)
2. Area Regulations in Commercial Districts (Section 48-212)
3. Supplementary Regulations (Section 48-473)
4. Zoning Administration and Enforcement (Sections 48-38 and 48-39)
5. Special Purpose Districts (Section 48-286)
6. Parking Lot Requirements (Sections 48-511 and 48-530)
7. Waterfront District Development Standards [Sections 48-371 and 48-373(c)]
8. Waterfront District Use Regulations [Section 48-339(c)]

Mr. Lucas said that the first amendment eliminates the parking requirement for residential development in C-3 (Central Retail) and C-4 (Central Office) districts. He noted that the current requirement is impractical because there is often insufficient room for parking, and property owners must therefore seek a variance from the requirement.

Mr. Lucas said that Amendment 2 eliminates the lower Floor Area Ratio (FAR) that the C-4 district requires for apartment houses compared to other uses (6.0 versus 20.0 FAR). He added that the change will allow greater flexibility for development in the downtown core, to better accommodate the current demand for residential space in this area.

Mr. Lucas stated that the third proposed amendment deletes outdated cross references to Sections 506 through 508, which no longer exist in the City Code, and adds new language regulating building projections and encroachments that bring the Zoning Code into conformance with current Building Code regulations and practices. He noted that this new language codifies standard practices that City departments have employed for many years.

Mr. Lucas said that the fourth amendment shifts authority over an approval process relating to nonconforming uses from the Zoning Board of Adjustment (ZBA) to the Zoning Manager. He stated that, when a nonconforming use has been discontinued for over one year, it generally cannot be reestablished. However, if the ZBA decides that the owner has completed substantial work on renovating the property under an open City building permit during the time of disuse, the use can be reestablished even if more than a year has elapsed. The proposed amendment would allow the Zoning Manager, rather than the ZBA, to administratively make this decision, which will make the determination process faster.

Mr. Lucas stated that Amendment 5 eliminates the one-year deadline by which repairs to damaged properties must be completed, and replaces it with a one-year deadline by which the

owner of a damaged property must apply for a building permit. All repairs would then need to be completed within the normal time constraints of the building permit.

Mr. Lucas described the sixth amendment as a simple text change. The text change would allow non-profits and community associations greater flexibility to operate in parks and playgrounds, provide more opportunities for these organizations to partner with the City on activities in local parks, and bring current operations of some non-profits into compliance with City Code. He noted that the amendment would not alter the normal permissions that non-profits are required to obtain from the City to conduct their activities.

Mr. Lucas stated that the seventh amendment adds a cross-reference to another part of the City Code that discusses Best Management Practices (BMPs) for stormwater management that are required for parking lots, and informs the applicant or designing engineer of the Department of Public Work's stormwater management credits program, which allows for a reduction in fees when BMPs are installed in excess of standard requirements.

Mr. Lucas said that the eighth amendment clarifies that a parking lot owner is responsible for the care, maintenance, and replacements of all parking lot landscaping, including all required street trees, and that the filling of tree pits without written permission from the Department of Public Works is illegal.

Mr. Lucas stated that Amendments 9 and 10 eliminate two references to a defunct practice of issuing "development permits" for approved waterfront development proposals. Amendment 11 also relates to waterfront zoning districts. Mr Lucas said that this amendment provides for a greater number of special exception uses (i.e., uses permitted with ZBA approval) in W-4 (Waterfront Residential/Commercial) zoning districts. The additional uses are the trade-like uses currently permitted in C-2 (Secondary Office and Business Center) zoning districts, listed under Section 48-193(c)(7). He noted that the amendment also explicitly excludes outdoor storage and automobile repair services.

Mr. Lucas concluded by stating that a legal notice of the present public hearing was published in *The News Journal* on May 14, 2018, and the meeting agenda was mailed to the standard City Planning Commission mailing list and posted in the lobby of the Louis L. Redding City/County Building and on the City's website.

Ms. Weir asked the Commissioners whether they had any questions. Joe Chickadel asked who proposed the eleven amendments. Mr. Lucas responded that the changes were a result of a dialog between the Planning Department and the Zoning Manager, and that, in the case of the eleventh amendment, the Zoning Manager suggested the specific changes. Mr. Chickadel commented that the City had recently been dealing with instances of outdoor storage of junked automobiles.

Desmond Baker asked whether, from a legal standpoint, the proposed amendments are in the same context as the original intent of the Code sections they are modifying. Tanya Washington stated that the amendments were fully vetted by the City Law Department, and Mr. Lucas

agreed. Mr. Baker then asked for clarification regarding the purview of the Code section to which the fourth amendment applied [Section 48-38(b)(8)]. Mr. Lucas responded that the section only addresses nonconforming uses. Mr. Baker asked how one would get a building permit to renovate a building with a nonconforming use status. Mr. Lucas replied that there are several conditions under which a nonconforming use can be reestablished if it has elapsed for longer than a year, but that the subject Code section is only relevant to instances wherein the property owner has a building permit to conduct renovations that extends beyond the one-year limit. Mr. Baker then asked whether the Code section addressed in the fifth amendment (Section 48-39) referred to any type of restoration, or only restoration following fire damage. Mr. Lucas replied that the section refers specifically to restoration following a fire, explosion or other sudden, unforeseeable damage.

Lloyd Budd asked whether, in the case that a property with a nonconforming use is conveyed to a new owner, does the property then need to conform to current Zoning regulations. Ms. Kaminsky responded that the nonconforming use can continue to operate and the property does not need to be modified, unless a new or additional use is established.

Ms. Weir asked whether the Commissioners had additional questions. As there were none, Ms. Weir then asked members of the public whether they had any questions. Only one member of the public was present, whom Ms. Weir identified as Michael Hare. Mr. Hare said that he was attending the public hearing to obtain more information about the amendments, particularly the eleventh amendment, as many of the properties his company owns are in W-4 districts. Ms. Weir asked if he had any questions or concerns. Mr. Hare replied that he would like to have seen an abridged description of the amendments that provided more detail than the agenda did. Ms. Weir then closed the public hearing at 6:22 pm.

REGULAR MEETING

Approval of the minutes of the April 17, 2018 City Planning Commission Meeting

Ms. Weir asked the Commission to make a motion on the minutes of the April 17, 2018 CPC meeting. AJ Hill moved to approve the minutes, and Ms. Washington seconded the motion. All members voted to approve the minutes.

New Business

Resolution 15-18: A proposal to amend Chapter 48 of the City Code (Zoning Code) to make the following eleven changes for the purpose of repealing certain provisions that are no longer necessary or appropriate, and to amend sections that require clarification or updating: (1) under Section 48-443, eliminate the dedicated parking space requirement for apartment houses in C-3 and C-4 districts; (2) under Section 48-212, eliminate the apartment house specific FAR in C-4 districts, so that the applicable FAR is the same for all uses in C-4 districts; (3) under Section 48-473, replace a defunct cross reference to the Building Code with applicable language to improve clarity; (4) under Section 48-38, allow

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Ms. Weir asked if anyone wanted further clarification on the content of Resolution 15-18. As there were no additional questions or comments, she called for a vote on the resolution. Mr. Hill moved to approve the resolution, and Mr. Baker seconded the motion. All members voted in favor of Resolution 15-18.

Adjournment

Ms. Weir called for a motion to adjourn the meeting. Mr. Baker moved to adjourn, and Mr. Hill seconded the motion. All members being in favor, the meeting was adjourned at 6:25 pm.