

Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's April 2, 2024 Meeting

I. Call to Order

Rachel Lyon, Chairperson, called the meeting to order.

Present: Kym Kays, Mary Jo Dancer, Rachel Lyon, Butch Holum, Lisa Richard, Tim Haynes, Michelle Anderson, Gary Hogsett, Rita Ortolani

Absent:

Guests: Travis and Laura Blankinship

- a. Orientation by the City Attorney.

Jeff Chubb, City Attorney, conducted Orientation for the Planning Commission/Board of Zoning Appeals members.

II. Minutes

- a. Consider approving minutes of the March 5, 2024 meeting.

Lisa Richard asked for an amendment to the minutes:

- c. Consider a preliminary plat for Jefferson Subdivision.

Rachel Lyon opened the public hearing.

Rita Ortolani reminded the board members that she is on the housing board.

Tim Haynes and Lisa Richard stated that a sidewalk should be included in the Subdivision. It was noted by the engineer that a sidewalk is included in the plans.

Lisa Richard wants it noted that her vote for approval will only count if the sidewalk stays in the plan.

to change: Tim Haynes and Lisa Richard stated that a sidewalk should be included in the Subdivision. It was noted by the engineer that a sidewalk is included in the plans.

to: Tim Haynes asked if a sidewalk was included on 11th Street. The engineer stated it was not. It was noted by the engineer that a sidewalk is included in the plans.

Kym Kays stated that she did not feel there needed to be an amendment.

Then Tim Haynes further modified the last sentence of the suggested amendment to state: *After further investigation, it was noted by the engineer that a sidewalk is included in the plans.*

Motion:

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On the motion of Tim Haynes, seconded by Lisa Richard the Commission approved the March 5, 2024 minutes as amended.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Dancer, Lisa Richard, Gary Hogsett, Butch Holum, Kym Kays, Rita Ortolani
Nay: None

III. Planning Commission

- a. Public Hearing to consider rezoning a tract of land at 1621 North Pennsylvania Avenue from C-2, commercial services district to R-2, single-family dwelling district.

Rachel Lyon opened the public hearing.

Travis and Laura Blankinship were present at the meeting and Travis explained how they purchased the house at 1621 N Penn Ave and discovered, after gutting the structure in preparation for extensive remodeling, that it is not in good shape and needs to be rebuilt, mostly due to the foundation.

Tim Haynes asked if the new-built house would be any larger.

Travis Blankenship explained that it may be longer but will be no wider.

Butch Holum asked if the driveway would be on N Penn or at the alley.

Travis Blankinship said he was going to re-pour the driveway that he tore out, which runs from N Penn to the alley. He stated that each of his renters use the alley instead of N Penn because it is safer that way and he will ask the same from the renter of this property.

Motion:

On the motion of Kym Kays, seconded by Butch Holum the Commission moved to recommend the City Commission authorize the rezoning of 1621 N. Penn from C-2 to R-2 based on meeting several Goals, Objectives And Policies of the Comprehensive Plan.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Dancer, Lisa Richard, Gary Hogsett, Butch Holum, Kym Kays, Rita Ortolani
Nay: None

- b. Public Hearing to consider a text amendment to Appendix B - Zoning related to dwellings.

Rachel Lyon opened the Public Hearing.

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Kelly Passauer explained that if a text amendment is approved to include dwellings in C-1 and O/P with a conditional use permit, it would eliminate the outright restriction of building new homes in these zones. It would provide the property owners within 200' the opportunity to voice any concerns before the conditional use permit is approved.

Motion:

On the motion of Lisa Richard, seconded by Tim Haynes the Commission moved to recommend the City Commission approve a text amendment to allow for multi-family dwellings, single family attached and detached dwellings, and two family dwellings in the C-1 district with a conditional use permit; and single family detached and two family dwellings with a conditional use in the O/P zone. The change would affect the O/P and C-1 zones, and is made necessary by new planning concepts to encourage additional housing choices throughout the City.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Dancer, Lisa Richard, Gary Hogsett, Butch Holum, Kym Kays, Rita Ortolani
Nay: None

- c. Consider rescheduling the June 4, 2024 meeting to June 11, 2024.

Kelly Passauer explained that she and David Cowan would be at a conference on the normal meeting date of this board and asked if the members wanted to move the meeting to June 11, 2024.

Motion:

On the motion of Kym Kays, seconded by Mary Jo Dancer the Commission moved to reschedule the June 4, 2024 meeting to June 11, 2024.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Dancer, Lisa Richard, Gary Hogsett, Butch Holum, Kym Kays, Rita Ortolani
Nay: None

- d. Consider scheduling a joint worksession with the City Commission regarding the draft Community Development/Comprehensive Plan.

Motion:

On the motion of Rachel Lyon, seconded by Lisa Richard the Commission approved setting a joint worksession with the City Commission on April 16th at 5:30 PM to review the draft Community Development/Comprehensive Plan.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Dancer, Lisa Richard, Gary Hogsett, Butch Holum, Kym Kays, Rita Ortolani
Nay: None

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IV. Discussion

- a. Consider discussing a request to initiate a moratorium on downtown sign regulations.

David Cowan advised the board that the Independence Historic Preservation and Resource Commission (IHPRC) that he staffs received a complaint that a new sign was erected at 325 N Penn that did not follow the process to obtain a sign permit. Signs in the Downtown Historic District are required to receive a Certificate of Appropriateness from the IHPRC, in addition to meeting the C-3, Central Business District sign regulations in the Zoning Code before a sign permit can be issued.

Additional background was provided in the staff report as follows:

The property owners were notified of the violations on July 31, 2023. The sign permit was applied for by the business owner Jim Hayward, and on August 23, 2023 the IHPRC reviewed and approved the sign. However, the IHPRC noted that they also needed a variance from the Board of Zoning Appeals as the number of wall signs exceeded what was allowed in the C-3 zoning district. A variance application was not received, and on December 4, 2024 City staff met with the business owner, Jim Hayward, who applied and paid for the variance. However, the building owner, Tom Schwarz, came to City Hall while staff was working with the business owner and asked for staff to return Mr. Hayward's money and indicated that he as the building owner would address the issue. Mr. Hayward's payment for the variance was refunded.

The building owner, Tom Schwarz, did meet with City staff and we reviewed the sign code on January 2, 2024. It was discussed that other signs on the building are also not in compliance with current City code and sign permits were not applied for, such as the temporary signs that Mr. Schwarz installed after they purchased the building. City staff advised the building owner to apply for a variance to address exceeding the number of wall signs so that the sign permit could be issued for Mr. Hayward's business. Mr. Schwarz was also advised that the definition of temporary signs could be reviewed during the zoning code update as we discussed that the type of material used was not available when the code was written, and possibly that portion of the code that only allows temporary signs for 30 days could also be amended. Mr. Schwarz requested that enforcement of all sign regulations regarding his building be delayed until the zoning code was reviewed. I asked him to make the request in writing, and he submitted it on February 7, 2024 after the February 6, 2024 Planning Commission meeting. Because the March meeting had several public hearings, I delayed this discussion item until this meeting.

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It should be noted that the Jim Hayward sign and the temporary signs were not present when the City managed the building several years ago. The City did not install any additional signs. However, the phone number on one sign was modified.

City staff did ask the consultant (Confluence) who would be performing the zoning code update about this request, and Abbey Eckberg replied as follows:

I talked with Chris on this and debated the topic some. Here are our thoughts on the matter:

It would be rather irregular and inappropriate for a moratorium to be authorized by the City to permit new signs that do not comply with the current code. What would be the more typical use for a moratorium would be a pause on permits for any new signage until completion of any planned code update. Also, we do not think the Planning Commission/Board of Appeals has the authority to outright waive or even temporarily suspend a code requirement. They can grant a variance if the 5 standards listed in the City's code are met or they can decide the zoning administrator has made an error in applying the zoning code, which obviously you have not made an error.

Regarding the current sign code, the "One sign per face of building not to exceed 50 square feet or five percent of the total area, whichever is smaller." Is very clear and not unusual and there are other sign types still permitted. But some cities do allow for 2 or 3 signs per wall face or even an unlimited number of signs per wall face provided the total sq footage limit is not exceeded. It really comes down to community preference. If you and the council are otherwise happy with this wall sign standard, we see no reason to change it.

Kelly Passauer indicated that her concern with a moratorium on the sign regulations in the C-3 district was that non-conforming signs could be installed that would be grandfathered in. In addition, if a moratorium to pause sign permits was approved, it would not allow existing or new businesses to modify or install new signage during this time, which could create a hardship for those businesses. The sign permit that was applied for could be issued if the building owner applied for a variance regarding the number of wall signs, and such variance was granted by the Board of Zoning Appeals.

Tim Haynes said that a moratorium could not be applicable to one building as

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requested by the building owner, it would have to be applicable to all within that zoning district. He indicated he was not in favor of a moratorium and asked if anyone else was in favor of one, and all board members indicated they were not. After further discussion, Lisa Richard proposed that a motion be made.

Motion:

On the motion of Lisa Richard, seconded by Rachel Lyon the Commission moved to not initiate a public hearing to consider a moratorium on downtown (C-3 Central Business District) sign regulations.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Dancer, Lisa Richard, Gary Hogsett, Butch Holum, Kym Kays, Rita Ortolani

Nay: None

- b. **Reminder of Community Development/Comprehensive Plan Public Workshop on April 9th from 5 - 7 PM at Memorial Hall.**

Kelly Passauer reminded the board members that there will be a public workshop on the new Comp Plan on April 9th from 5-7 pm at Memorial Hall.

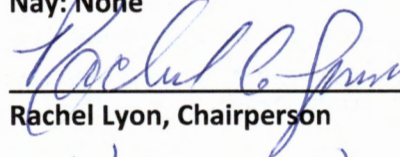
V. Adjournment

Motion:

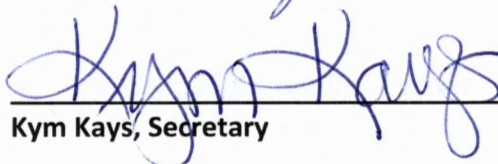
On the motion of Tim Haynes, seconded by Rachel Lyon the Commission adjourned the meeting.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Dancer, Lisa Richard, Gary Hogsett, Butch Holum, Kym Kays, Rita Ortolani

Nay: None



Rachel Lyon, Chairperson



Kym Kays, Secretary