

<b>Meeting Notes</b>	
	<b>reFORM Zoning Barriers Subcommittee Meeting</b> November 13, 2013; 11:30 a.m. County/City Building, Room 113
Members in Attendance:	Cathy Beecham, Jon Carlson, Michael Cornelius, Tim Gergen, DaNay Kalkowski, Dan Klein, Rick Krueger, Jeanelle Lust, Don Nelson, Patte Newman. Mike Eckert, Dave Johnson absent.
Others Present:	Marvin Krout, David Cary, Steve Henrichsen, Christy Eichorn, Brandon Garrett, Stacey Hageman, Michele Abendroth (Planning Department)

## **I. Welcome – David Cary**

The meeting was called to order at 11:32 a.m. David Cary welcomed everyone and introduced Christy Eichorn who will be the main presenter today.

## **II. Meeting Content and Materials Overview – David Cary**

### **III. What We Want to Accomplish Today – David Cary**

- a. Complete the Additional Explanation and Opportunity for Discussion on Remaining Zoning Barriers Concepts**
- b. Review Landscaping and Screening Proposals and Complete Feedback Sheet**

Cary briefly reviewed the agenda for today’s meeting. He noted that we will review the screening and landscaping concepts as well as address the questions we received on the zoning barriers feedback sheet.

## **IV. Continued Explanation and Discussion of Proposed Zoning Changes – Christy Eichorn**

- a. Streamline the Project Review Processes**

***Convert all Special Permits for Planned Service Commercial into Use Permits.***

Eichorn stated that the planned service commercial is a special permit that was created in 1982 specifically for the Trade Center. The purpose of the special permit was to allow flexible arrangement of lots, block and buildings in exchange for restricted uses and site planning. Since 1982, the text for this special permit has been amended 18 times. The planned service commercial is less restrictive than a use permit. The special permit is treated the same way as a use permit in terms of what you need to supply to the Planning Department. The following uses are allowed in the H-4 District but are conditional in the special permit: Stores or shops for retail sales and services not exceeding 30,000 square feet in floor area; offices not exceeding 15,000 square feet of floor area; clubs and outdoor and enclosed commercial recreational

facilities provided the activities are located no less than 150 feet from an abutting residential district; and motor vehicle repair, including vehicle body repair shops. Uses that are allowed in the special permit but not in the H-4 Zoning district are as follows: churches, wholesale and distribution centers; cabinet shops and stores; and motor vehicle and/or truck wash facility.

The same standards apply to this special permit as apply to use permits. Adjustments to height and setbacks can be approved by City Council the same as with use permits.

Lust asked how getting rid of the special permit benefits everyone. Eichorn stated it clears up the differences. They are tracked differently, and people are confused about what's allowed and what's not allowed. A special permit can allow you to restrict uses where a use permit is not supposed to be used to restrict uses. Kalkowski stated that it is confusing now, so this makes a lot of sense. Lust asked what this helps with in the process. Kalkowski stated that there is just one application. Eichorn stated that all of our use permit districts like B-2 and B-5 require a use permit, so the H-4 areas are generally larger areas and have the same uses as our other use permit districts.

Eichorn clarified that whatever uses you have in H-4, you can have through the use permit. We would combine them all together so there is one district; it has an overall site plan, and you understand what the uses and limitations are. In all H-4 districts, you would be required to have the use permit. Carlson asked if there are sites that are currently limited if they would become unlimited retroactively. Eichorn stated that when we convert them to use permits, any restrictions that were put on the special permit would stay.

Gergen stated that one nice thing about special permits is that they could be approved at Planning Commission, but use permits need City Council action. Eichorn stated that use permits can be approved at Planning Commission as long as you are not asking for waivers.

***Allow for New Use Permits to be approved administratively.***

Eichorn explained the proposed process for use permits to be approved administratively. There will be a public hearing on the change of zone, but site plans can be approved administratively if no waivers are required. Design standards provide more predictable outcomes for both developers and neighbors. Later amendments should not require additional hearings.

Beecham asked if neighbors have a mechanism to ask for a restriction if they have concerns and we make this change. Eichorn stated that when something gets rezoned, that would be dealt with at the change of zone and not necessarily with the use permit. If we have good standards and they meet that, then there is no surprise at Planning Commission. Krout stated that there is a tool, which is a zoning agreement, where we have put specific restrictions on uses.

Lust stated that she supports administrative approval, but her concern is that neighbors don't like that process. She wonders if we are cutting off public input and asked if there is a mechanism to address that. Kalkowski stated that she does not think there is. Carlson asked if there is a notification process in place. Eichorn stated that if there is an administrative

approval, it is put in the City Council packet, and an aggrieved person can appeal that. Beecham stated that we want to make sure people have the opportunity to weigh in. She asked if we could define what minor amendments are. Cornelius stated that often the argument is against the regulatory regime. Residential neighbors sometimes feel powerless in that respect. Carlson stated that a lot of this can be handled prior to the use permit process and maybe we need to look at the notification standards. He feels that it just being in the City Council packet is not enough. Krout stated that we have an ad hoc process, where we send out notices to property owners who think they might be affected. Kalkowski stated that we need to be careful to not create a longer process with the administrative approval than they would have if they had just gone to Planning Commission. We don't want to create a process of unpredictability. Krout stated that this is a good topic for the Planning Commission to discuss.

#### **b. Promote Residential In and Near Commercial Developments**

***Allow residential uses on the first floor of commercial buildings in business districts as long as residential is set back 40 ft within buildings along arterial or collector streets.***

Eichorn stated we need to look at how to encourage more residential near our commercial areas. One way to do that is to allow residential on the first floor. This is important because people who live in commercial areas will shop in the commercial areas, encouraging redevelopment

***Allow residential uses in H-2 and H-4 districts by special permit, recognizing its appropriateness is situational.***

Eichorn stated that H-2 and H-4 are districts that we expect to see more commercial development. Planning will need to work with the Health Department to develop standards for residential in these two districts. We want to open up the opportunity to potentially be able to get a special permit if the residential use is compatible with the district.

Cornelius asked if we have looked at other communities to determine the impact where residential has been added to commercial and the impact it has on future developments. Eichorn stated that she has heard arguments about incompatibility of residential and commercial downtown. Krout stated that there is a certain responsibility that if you buy property downtown, you should know what to expect, and it is the same situation in a mixed use development.

***Eliminate the small Community Unit Plan (CUP) penalty provision.***

Eichorn stated that today if you have a CUP that is less than 10 acres but more than 5, there is a 10% required reduction on the density. In straight residential zoning districts, there is no given density. Your density is based on the number of lots that you can create in a certain area. In a CUP if you have less than 5 acres, you take a 20% reduction. The formula to calculate density is as follows: District density x acres = total density. An example is R-2 density is 5.8 units per acre, and the project area is 5 acres.  $5.8 \text{ units} \times 5 \text{ acres} = 29 \text{ units} - 20\% = 23.2 = 23 \text{ units}$ .

CUPs are already allowed to be as small as 1 acre. In some cases, you can get more lots and more density by not doing a CUP than with a CUP. The purpose of the CUP is to promote creative design, to allow smaller lots so you can have more open space, and have areas where you might be able to put detention. So the question is if this difference is great enough to keep in the code. Staff feels like it is an impediment to infill and redevelopment projects, particularly for single and two-family developments.

Cornelius commented that it seems the whole point is to make CUPs bigger. Carlson stated that he thinks the size minimum is important. He is concerned with the 1 acre size. The tradeoff is that 1 acre is too small right now, but if it's bigger, should it be given more flexibility. Aside from getting rid of the penalty, you manage to get 5 or 10 acres and try to create density and have good design, should we be giving bonuses instead of penalties. When you go to 1 acre, neighborhoods have a real concern that they have done downzonings, and they assume the downzoning is in place. Cornelius stated that in the LPlan process, we asserted that it would be good to take these smaller lots and do something creative with them. Eichorn stated that CUPs still go through the public hearing process. The neighbors have the opportunity to voice their opinion. Lust stated that there is no reason to automatically eliminate a 1 acre CUP as a possibility if it will be good for the neighborhood. Carlson stated that it can be a deterrent. When people get protections that they rely on, then they invest. Krueger questioned how you bring new capital to redevelop some of these older areas. He is hearing uncertainty. Carlson stated that people buying houses and fixing them up is an investment too, and we need to continue to value that. Lust stated that you want to encourage infill and redevelopment, but you want design standards to make sure it is good infill and redevelopment. The question is if the penalty discourages infill and redevelopment, and she believes it does. Krout stated that this is good discussion, and we can come back to it as there are some concerns.

### **c. Reduced Size of PUD**

*~~Reduce the PUD to 1 acre minimum in corridors.~~*

*Allow PUDs to include adjacent right-of-way in minimum area.*

*Provide for waivers to height and lot regulations through a special Use Permit process.*

Eichorn stated that we are proposing to get rid of the proposed standard to reduce the PUD to 1 acre. In order to provide predictability to the development community and neighbors, if we are talking about a site plan that is going to adjust height, setback, parking, or sign requirements, let's just call it a use permit. So we are offering an optional use permit in the H-2 and B-3 districts. We feel this is a better proposal than reducing the PUD to 1 acre.

Eichorn clarified that in the corridor districts, if they do not need any adjustments, they just go to Building & Safety and get their building permit. If they need adjustments, they need to go through the public hearing process through Planning Commission and City Council. Carlson noted that right now they can't even ask for any adjustments.

## V. Review Proposed Landscaping and Screening Requirements – Christy Eichorn

### *Better enforcement of existing standards with a new permit fee to cover inspection costs.*

Eichorn stated that they are recommending a new permit fee to be implemented to cover inspection costs.

Krueger stated that he objects to the notion of having a fee so someone can enforce the requirements. Lust stated that she disagrees. She asked why we would have regulations if we are not going to enforce them. Krueger stated that there is enforcement by the public being able to call in complaints. This is going to be very problematic to institute. Krout stated that landscaping is unique in that we allow landscaping to go in after the fact, so that is a large part of the reason why we see abuse. The public doesn't see the landscape plan and doesn't generally know what the rules are and if there was supposed to be planting there. In other places, we take bonds to ensure that sidewalks or trees are put in. We are not asking for bonds, but we are asking that people put in what they say they are putting in.

Krueger stated that there may be reasons you need to adjust the landscape plan or change species. There will be all kinds of problems with provisional permits. He likes the way we do it now where complaints are called in to Building & Safety.

Nelson asked if the gap has been fixed where the neighborhood, City Council, and Planning Commission agree on what the development should look like in terms of landscaping, and then the developer comes in with a new plan that ignores all the previous negotiations. Krout stated that there was an issue on a specific case, and he believes we have caught that problem.

Beecham commented that a regular citizen would not know the specifics of the landscape plan or who is supposed to maintain the landscaping.

Krout stated that there is an expectation that the city is going to write standards including buffers between residential and commercial that provide environmental and other benefits. If it's in the standards, it should be enforced.

### *Require street trees with new developments at permitting stage.*

Eichorn stated that they talked with developers about street trees, and one of the things they heard is that street trees block signs. Street trees are already required because we have determined that street trees have great value, and so the question they are asking is how we get more street trees other than when we have a final plat. They are proposing to require street trees as part of the streetscape particularly along corridors when they have a site that is redeveloped. The spacing of the street trees is dependent on the speed limit of the street. In corridors, they are talking about a 20 foot build-to zone in front of the building, and there is a potential you could put a free-standing sign in that 20 foot zone.

Lust asked if there are any concerns that we are requiring street trees that aren't being maintained by the City. Krout stated that is an issue that is high on the Mayor's agenda and is a high priority with citizens.

Krueger stated that he applauds what they are trying to do, but he believes it should be with the subdivision not at the time of the permit. Also, the signage issue is a real issue.

***Require more parking lot trees.***

Eichorn stated that they are increasing the requirements for trees in parking lots. We are requiring 1 more tree per square footage.

***Require solid screens with trees between residential and commercial zoning districts.***

Eichorn stated that we have talked about this requirement in the past. This would require a 100% screen which would mean a 6' fence or wall as well as trees so they buffer the residential from the commercial. You could use your side yard setback for parking. You could use the islands to plant the trees on. There has been some discussion that those could be used for the green requirement.

Krueger stated that the issue is that the trees are too close together. You are losing stalls and you have no place to put snow. Eichorn stated that you are not losing stalls; we are giving you stalls because we are allowing you to park in a side yard you couldn't otherwise park in.

***Eliminate current exemption for shallower lots in older zoning districts to be exempt from parking lot screening requirements.***

Eichorn stated that this is happening in older areas with smaller lots that are ripe for redevelopment. For lots that are 150' deep, if they were to redevelop, they would not be required to have parking lot screening or buffering.

***Apply existing parking lot screening requirements to auto display areas.***

Eichorn stated that parking lot screening is required for all new parking lots unless your lot is 150' deep or less. We are really seeing the problem on small lots.

Lust asked if the nature of the business requires that your cars are seen. Krout stated that in new areas, they are seeing developers who are willing to do the screening. Eichorn added that the point is that if it is a small lot and you can't meet the screening requirements, maybe this isn't the right commercial strip. There are several other districts that are great for auto dealerships. We aren't taking auto dealerships out of here, but are we are upping the standards.

**VI. Complete and Hand in Zoning Changes Comment Sheet to Staff (if you have more comments) and the Landscaping and Screening Feedback Sheet**

Cary requested that the members complete and return the feedback sheet.

## **VII. Public Comments**

There were no public comments.

## **VIII. Wrap Up**

Cary noted that the next committee meeting date is December 4. He thanked the members for their participation.

The meeting was adjourned at 12:58 p.m.

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