



STAFF REPORT

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To: Planning Commission
From: Community Development Director
Date: March 2, 2004
RE: PC 02-17
Development Code Update, Chapter 19.49 Outdoor Dining Facilities.

RECOMMENDATION: Conduct the Study Session and provide staff direction

BACKGROUND: At the February 17, 2004 meeting, the Planning Commission reviewed draft Chapter 19.49 which, if adopted, would regulate outdoor dining facilities, replacing City ordinance No. 123.

Attachments

- Draft Chapter 19.49
- Labor Code 6404.5

One of the issues raised in the February 17th meeting was the applicable standard for outdoor areas. Staff offered to research this matter and report back to the Commission.

The State's Smoke-free Workplace Law is contained in Labor Code 6404.5. This State law prohibits smoking in the workplace, including in bars and taverns. It became effective January 1, 1998. On January 1, 2004, the State adopted additional standards which ban smoking within 20' of the entrance of a state owned building. This limitation is now applicable only to State owned buildings, but the County of San Bernardino is currently considering revisions to its no-smoking regulations. If adopted by the County, it is anticipated that the regulation would be similar to the State's ban at building entrances.

Labor Code 6404.5 includes an exemption for a family operated establishment. Smoking can be allowed in a sole-owner establishment, where the owner runs the entire operation, with no employees. In these cases, family members are not exempt from this law, nor are bookkeepers, cleanup crews etc.

The Code also has language regarding establishments with five or fewer employees being exempt with installation of an EPA approved ventilation system. However, subsequent to the passage of this code, the EPA has listed cigarette smoke as a class 1 carcinogen, which, in effect, voids this option.

Section 19.49.050 (C) of the draft text provided to the Commission on February 17th listed the following as one of the required findings of approval:

The proposed facility complies with all standards and requirements of the County of San Bernardino Department of Public Health; and

In light of the ever changing regulation of this issue, staff is recommending that the section be changed to state:

The proposed facility complies with all applicable local, county, and state requirements;
and

With this approach, the City's requirements will reflect changes made at the state or county level.

Staff is recommending consideration of Chapter 19.49, as revised, which would serve as the standard for outdoor dining areas within the City.

After the Planning Commission is satisfied with the text, the matter can be set for hearing leading to adoption.



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To: Planning Commission
From: Community Development Director
Date: March 2, 2004
RE: PC 04-11
Update of General Plan Land Use Plan

RECOMMENDATION: Conduct the Study Session and provide staff direction.

BACKGROUND: On October 23, 2001, the City Council adopted the Land Use Plan of the General Plan. Subsequently, the Planning Commission and Council adopted revised zoning requirements as part of the Development Code update.

Attachments

- Land Use Plan

To ensure consistency, staff is recommending edits to the Land Use Plan. Edits are shown in the attachment with text proposed to be added shown in redline and text proposed for deletion shown in ~~strikeout~~. The following is a discussion of each of the recommended edits.

Page I-12

In Section VII (C), Office Commercial (CO), staff is recommending deletion of the text which states, "Vehicle storage lots shall be screened from public view." The purpose of this recommendation is that vehicle storage facilities are not included among allowable uses in the CO district and the text, if left in, leaves the impression that such facilities can be approved.

In Section VII (D) Commercial Neighborhood (CN), staff is recommending deletion of the text which states, "Generally, these commercial centers will be surrounded by RS or RM districts." and "Vehicle storage lots shall be screened from public view." The purpose of the first of the two above recommendations is that CN districts are compatible when adjacent to other types of commercial districts or adjacent to Multi-family residential districts. The purpose of the second recommendation above is the same as the purpose stated in the previous paragraph regarding the CO district.

Page I-14

In Section VIII, Industrial Land Use, staff is recommending deletion of the standard which states, "Off-street parking shall be provided for employees and customers; employee parking need not be paved if adequate dust control is provided." The purpose of this recommendation is that the City's revised parking code, Chapter 19.82, does not provide an exemption for paving for employee parking areas.

Page I-20

Staff is recommending that Section XIV (B), Building Height, be amended to reflect the

standards established in the Development Code. The current text states that the height of a commercial structure shall not exceed 35 feet and the height of an industrial structure shall not exceed 40 feet. The revised standard established in Development Code is 45 feet for commercial and industrial structures and the recommended change puts the two documents in sync.

Page I-21

Because Special Use Permits are no longer used, staff is recommending that it be replaced with “Minor” Use Permit.

Page I-27

Staff held several discussions with a consultant hired by the MCAGCC for development of a joint use sewage treatment facility. At the conclusion of the study, the consultant’s recommendation was that a joint facility was not feasible. Therefore, staff is recommending deletion of the text which states, “Discussions are underway with MCAGCC for development of a joint powers authority.”

Page I-28

Because the City has worked toward development of improved flood control facilities, staff is recommending the addition of the following text to Section XXV (F), “The City has identified enhancement of the Donnell Basin and development of new flood control facilities in the Pinto Cove watershed as high priorities.”

Three updates are proposed in Section XXV(G) to reflect changes in the City’s recreation facilities.

Page I-36

Staff is recommending that Program 1.2.1 be modified to include Service Commercial among the land use districts in which a Desert Southwest design theme is required. This change would by make the General Plan and Development Code consistent with regard to design requirements in the Service Commercial land use district.

Page I-37

Program 1.2.2 has been modified to reflect the Council’s policy of deferral instead of waivers for public improvements.

Page I-40

Because the Desert Southwest design theme is required for commercial development Downtown, staff is recommending a change to Program 3.1.3 to reflect the requirement.

Page I-43

The City has typically encouraged desert vegetation but allowed for other types of vegetation when proposed in moderation. For this reason, staff is recommending that the word “encouraged” be inserted in place of “required” in Program 5.3.5.

Staff recommends that the Commission discuss the proposed edits to the Land Use Plan and provide staff direction on either, 1) additional study sessions, or 2) scheduling of public hearings leading to adoption. Alternatively, if the Commission does not believe the changes should be made to the General Plan, staff recommends that the text in the Development Code be amended to ensure that the General Plan and Development Code are consistent.



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To: Planning Commission

From: Community Development Director

Date: March 2, 2004

RE: PC 02-17

Review of Chapter 19.46, Appeals, and consideration of new provisions for modification of development standards.

RECOMMENDATION: Conduct the Study Session and provide staff direction

BACKGROUND: Appeals of staff actions and Planning Commission actions, that would otherwise be final, are processed in accordance with Chapter 19.46 of the Development Code. The Planning Commission recommended a revised Appeal procedure at their November 18, 2003 meeting. The Council conducted a public hearing on December 9, 2003 and made slight modification to the draft recommended by the Commission (deleting the requirement for a preliminary determination of Appeals prior to a hearing at which a decision would be made) and subsequently took action at the January 13, 2004 meeting to adopt the revised procedure. The revised chapter, attached, became effective on February 13, 2004.

Attachments

- Chapter 19.46, Appeals
- Draft text for Modifications

On February 10, 2004 the City Council conducted a study session to discuss the chapter. Additionally, the Council discussed creation of a new provision which would allow for modification of standards in cases where specific findings could be made. After conducting the study session, the Council directed staff to bring the matters before the Planning Commission for consideration.

Regarding Chapter 19.46, Council discussion focused Section 19.46.060 *Appeal Review*:

Appeals shall be set for hearing before the Appeal Authority within 30 days of the application being received and deemed complete. If the Appeal Authority finds that the Approval Authority did not misinterpret any policy or ordinance or did not err in exercising its discretion, the Appeal shall be denied. If the Appeal Authority finds that the Approval Authority did misinterpret a policy or ordinance and/or err in exercising its discretion, the Appeal Authority shall provide written findings for their decision prior to taking action to approve the Appeal. Any such action of the Planning Commission shall be final if not appealed in accordance with this Chapter. City Council action on an Appeal shall be final.

Council directed staff to have the Commission reconsider the second and third sentences of this Section which state:

If the Appeal Authority finds that the Approval Authority did not misinterpret any policy or ordinance or did not err in exercising its discretion, the Appeal shall be denied. If the Appeal Authority finds that the Approval Authority did misinterpret a policy or ordinance and/or err in exercising its discretion, the Appeal Authority shall provide written findings for their decision prior to taking action to approve the Appeal.

Council would like the Commission to consider amending the text to allow approval of an Appeal in the event that the Appeal Authority found that there was a compelling reason or an overriding consideration that should be considered.

Regarding modifications, the City Manager presented the attached text, identified as section 14.50.120 which is from the Carpentaria Municipal Code. With this provision in the Code, the Planning Commission could modify City requirements if specific findings could be made. Following the discussion, the City Manager provided additional findings for the Commission's consideration, they are:

That development of the project, as modified, would result in a higher quality development, or

Would result in more logical or efficient land use, or

Would result in a superior architectural design.

Staff recommends that the Commission discuss the two concepts and provide staff direction on either, 1) additional study sessions on these matters, 2) scheduling of public hearings leading to adoption of revised and/or new procedures, or 3) a response to the Council regarding the Commission's determination of the next appropriate steps recommended to be taken.



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To: Planning Commission
From: Community Development Director
Date: March 2, 2004
RE: Review of draft Capital Improvement Program

RECOMMENDATION: Conduct the Study Session and provide staff direction

BACKGROUND: The City Council is in the process of developing its Capital Improvement Program (CIP). This process will identify major capital investments over the next five years. The Council has received the attached draft CIP and is currently reviewing it, considering what items to add, delete or modify. Then, the Council will begin prioritizing the projects based upon need and Council priority. Prior to adoption of the CIP, it will be presented to the Commission for a determination of consistency with the General Plan.

Attachments

- Draft CIP

At this time, staff is presenting the draft to the Commission for additional input. Commissioners may have comment on particular projects with regard to their priority and/or capital improvements to be added to the CIP. Additionally, the Study Session provides an opportunity for Commissioners to become familiar with potential future projects.

The ultimate determination on what is on the CIP and the priority of the projects rests with the Council. However, as always, the Council seeks input from the Commission and other sources to ensure broad public input.

Staff recommends that the Commission receive and discuss the draft CIP. Because it involves a variety of capital projects, additional Planning Commission Study Sessions could be scheduled.