



OFFICIAL MINUTES OF THE TUALATIN SPECIAL CITY COUNCIL MEETING FOR AUGUST 19, 2013

Present: Mayor Lou Ogden- by Phone; Council President Monique Beikman; Councilor Frank Bubenik; Councilor Joelle Davis; Councilor Nancy Grimes; Councilor Ed Truax

Absent: Councilor Wade Brooksby

Staff Present: City Manager Sherilyn Lombos; City Attorney Sean Brady; Police Chief Kent Barker; Finance Director Don Hudson; Deputy City Manager Sara Singer; Planning Manager Aquilla Hurd-Ravich; Deputy City Recorder Nicole Morris; Information Services Manager Lance Harris; Engineering Manager Kaaren Hofmann; Public Works Director Jerry Postema

A. CALL TO ORDER

Pledge of Allegiance

Council President Beikman called the meeting to order at 6:06 p.m.

B. CITIZEN COMMENTS

This section of the agenda allows citizens to address the Council regarding any issue not on the agenda. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.

C. PUBLIC HEARINGS – Quasi-Judicial

1. CONTINUANCE- Consideration of a Conditional Use Permit for the Nyberg Rivers Development to Allow Retail Uses in a Commercial Office (CO) Planning District and Outside Storage and Sales in a Central Commercial (CC) Planning District at 7055-7463 SW Nyberg Street (2S124A2700--2S124A2100 and 2S124B2507) (CUP-13-04)

Council President Beikman stated that the Council would be considering the Conditional Use Permit for the Nyberg Rivers Development at 7055-7463 SW Nyberg Street (CUP-13-04). The Conditional Use Permit has two components for consideration tonight to allow retail uses in a Commercial Office (CO) Planning District and to allow outside storage and sales in a Central Commercial (CC) Planning District.

Council President Beikman stated that the initial public hearing was held on August 7, 2013. The Council heard oral testimony and received written testimony from City Staff, the Applicant, proponents, and opponents. During the hearing, Zian Limited Partnership requested that the record remain open for seven days for it to submit additional evidence. The Council allowed the record to remain open for any person to submit additional evidence. Zian Limited Partnership was the only entity to submit evidence. The Applicant was allowed until today to submit any rebuttal evidence or argument. The Applicant submitted a legal argument.

Council President Beikman stated the City Council conducted a related hearing on the Master Plan application. The City Council will consider as part of the record in this CUP proceeding all information submitted in the Master Plan proceeding.

Council President Beikman asked for any ex-parte communication disclosures.

Councilor Grimes noted that she had a discussion with David Emami regarding the development code and his relationship with the City. She stated that this discussion would not impact her decision.

Councilor Bubenik noted that he had a discussion with Mr. Emami regarding the development code. He stated that this discussion would not impact his decisions.

Councilor Truax noted that he had a discussion with Mr. Emami regarding the development code. He stated that this discussion would not impact his decisions.

COUNCIL QUESTIONS

Councilor Truax asked who decides what the definition of sporting goods is in regards to the Central Commercial (CC) Planning District. City Attorney Sean Brady stated that the code references decision on interpretations stating they will be made by the City Manager and the Planning Director. In this case the city's code does not define sporting goods. The City referenced the American Planning Association definition in this case.

Council took a recess from 6:14 p.m. to 6:25 p.m. to read the rebuttal statement submitted by CenterCal Properties.

Councilor Grimes asked City Attorney Brady his opinion on the rebuttal letter that was submitted by CenterCal. City Attorney Brady stated that the letter addressed the issues raised by Zian and if the Council wanted his legal opinion they could enter into an executive session.

Mayor Ogden asked if outside sales were restricted based on the adoption of the Master Plan. Planning Manager Aquilla Hurd-Ravich stated that condition in the Master Plan restricts sales from common areas.

Councilor Davis asked if staff's recommendation still remained the same with the submission of the new evidence. Manager Hurd-Ravich stated that staff's recommendation has not changed.

Mayor Ogden asked questions regarding temporary outdoor sales. Manager Hurd-Ravich stated that the temporary outdoor sales go through a separate permitting process and cover things such as Christmas tree and fireworks sales.

Councilor Truax asked why the City would be opposed to the sale of sporting goods in this area. Mayor Ogden asked a follow-up question regarding the restriction of sporting good sales in a General Commercial zone. Manager Hurd-Ravich stated that in the General Commercial zone allows the sale of land and snow mobiles as permitted uses. She noted that the underlying planning district for this property is the Central Commercial District.

Councilor Truax asked the affects of applying conditions using this approach. City Manager Sherilyn Lombos stated that it is not uncommon for the Council to put conditions on a application of this nature.

Mayor Ogden asked for the definition of outdoor sales and how seasonal sales could fit into the definition. Manager Hurd-Ravich read the description of outdoor sales from the code. She noted that seasonal sales generally require a temporary outdoor sales permit and currently would not cover sporting good items. City Manager Lombos stated that for this property, if a condition is applied, it would restrict the ability for a temporary permit to be issued.

COUNCIL DELIBERATIONS

Councilor Truax would like to see the Council define the definition of sporting goods in the future. He does not feel that the Council should restrict the type of outdoor sales based on what is sold in the stores. Mayor Ogden agreed with Councilor Truax and added that only the space that they can sell outdoors should be limited.

Councilor Grimes agrees that the outdoor sales should be permitted as long as they do not interfere with the public common areas and the outdoor space does not become cluttered.


MOTION by Mayor Lou Ogden- by Phone, SECONDED by Councilor Ed Truax to approve the conditional use permit for the Nyberg Rivers Shopping Center to allow Retail Uses in a Commercial Office (CO) Planning District at 7055-7433 SW Nyberg Street (2S124A 2700) and Outside Storage and Sales in the Central Commercial (CC) Planning District at 7437-7463 SW Nyberg (2S124A2100 and 2S124B2507) with the condition that recreational equipment, apparel and sports outfitting sales are prohibited in areas identified as public gathering, multi-function open plaza and plaza seating with fire pit in the approved Master Plan Exhibit Q1 Building Frontage landscape plan.

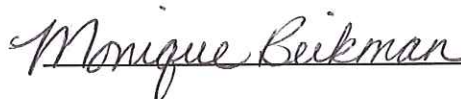
Vote: 6 - 0 MOTION CARRIED

D. ADJOURNMENT

Council President Beikman adjourned the meeting at 7:12 p.m.

Sherilyn Lombos, City Manager

 / Nicole Morris, Recording Secretary

 / Monique Beikman, Council President