

**CITY OF EL MIRAGE
PLANNING AND ZONING COMMISSION
REGULAR MEETING MINUTES
JANUARY 11, 2011**

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Doug Doede called the meeting to order at 6:00 p.m. and led the Pledge.

II. ROLL CALL

Members present were Doug Doede, Beth Simek, Brandon Forrey, Bill Morrison, and Mary Koestner. Staff members present were Planning and Development Director Scott Chesney and Senior Planner Mark Smith.

III. APPROVAL OF THE MINUTES OF NOVEMBER 9, 2010

Brandon Forrey made a motion for approval of the minutes of November 9, 2010, and Bill Morrison seconded the motion which then passed 5 to 0.

IV. CONTINUANCES [NONE]

V. NEW BUSINESS

1. Proposed code amendments for new medical marijuana facilities

Mark Smith referred the Commission to the proposed ordinance allowing medical marijuana facilities by conditional use in B-2, B-3, and I-2. He then referred to the map showing that the 1-4-mile radius from residential and institutions would eliminate most of the B-2 and B-3 districts. This leaves the area south of Peoria except the I-3 Mining Industrial area east of El Mirage Road and the area around the park.

Doug Doede asked about areas in adjacent communities. Smith said we could recommend something to them but it would be up to them what they adopt. Staff included their residential and institutions on the City map but the north part of the City is already too close.

Scott Chesney said we want to watch the SW Rail-Plex area west of Dysart Road in Surprise. We would want to work with them since it would be similar to El Mirage's I-2 and allow such uses.

Bill Morrison asked if there were any existing buildings available in that area. Morrison asked if any were proposed sites. Chesney said one or more may be suitable but it seems likely that we have capacity. Smith said the Cannabis Society referred to a site but did not pinpoint its location. Smith said that Roger Cleveland had asked about a facility at the El Mirage Commerce Park but it is too close to Gateway Park.

Brandon Forrey asked about B-2 & B-3 areas in the area. Smith said there were a few at main corners but these sites are typically retail centers. Chesney said as we recode the City this kind of classification disappears so the relevant portion is the exclusionary 1320 feet, so this area would be included. Forrey asked what happened if residential

encroached on a facility. This could happen east of El Mirage Road as a result of redevelopment along the river outside the noise zones.

Bill Morrison asked how this conflicts with federal law. Chesney said we are going through this due to the popularly passed action by citizens of the state. There may be direction or constraints from the state. He thought the City should have a position to start with while the state decides what it will do

Mary Koestner said there is conflict but the current administration says there is no conflict. This could change with a change in administration. Doede said it could end up in court. Chesney thought that was likely. Mary read a statement that she recommended caution as there was not enough evidence to make an informed decision on the impact of social fabric. It would be wise to impose a moratorium until a valid study is done to provide this information. Other cities have done this. The anticipated tax revenue may be tempting but the real cost to the City needs to be the basis for our decision. The site mentioned earlier is close to Gateway Park and residential areas. In her opinion, one quarter of a mile is not enough distance between them, so there is still a lot that needs to be done.

The Chair said if we can get a basis tonight we can get something started. After that it would be up to the Council, attorneys, and state. Chesney said this is a zoning recommendation and it is important to consider outside of policy values. The points made are valid and good for Council to hear, but a moratorium or other actions are policy steps. A recommendation from you tonight is does this meet your needs to move forward or do you want it tabled for more discussion or some other action. Does it provide basic levels of protection to recommend to Council. The Chair asked if the quarter-mile boundary is enough. Forrey said what we were talking about was defining the facilities and which zones it would apply to. A conditional use would have to be approved by the Commission and Council. We are talking about something that's a reality regardless of how we feel about it. Smith noted that they had a letter from American Cannabis Society today with issues about this ordinance. Also, someone wanted to speak.

Sam Weiss said she and her husband had lived here for several years and both had family members with terminal illnesses that could benefit from the medication. A lot of you look at it as a negative thing, but this is an alternative medication with proven benefits to people with medical issues. I hope you will think about that instead of looking at it as a nuisance. It looks like you are pushing everyone to the south end and 1320 foot distance. There's not too much available out this way.

The Chair asked whether the Commission wanted to act on this or table it. Bill Morrison moved for acceptance of the recommendation as written to move it forward without including B-2 and B-3. Beth Simek seconded. Smith wanted to make sure that everyone recognizes that a conditional use is a use allowed by public hearing only and does not

say that any location in the area would be approved. Koestner asked if the distance could be changed. Chesney said Council could modify it over time or vary by use. Forrey said he could use more time to do additional research and feel more comfortable but did not want to go against the rest of the Commission. He asked if others felt they had time to grasp it. Morrison said we did not define these uses; what we were looking at is restricting them to the south end as acceptable. He could not see how more study would help. There's nothing there. He did not know what else to change. There is nothing there to affect. He does not have a problem with it. Koestner said that this was the first that she had heard of it. She thought another month would be a good idea. The Chair asked what other information she wanted. She asked how much space they needed and the effect on the residential areas. Bill Morrison said he lived in the area and there was not a lot there. He called for the motion. The vote was 4 in favor with Koestner opposed.

Chesney assured the Commission that the opposing vote would be included in the staff report and minutes and sent on to the City Council.

2. Proposed code amendments for a form-based development code

Smith referred to the tables of land uses and setbacks and map. He noted the local calibrations [adjustments] in some districts including going to 10' setbacks in the Arts District [T4] and asked for the Commission's comments. Doede said it fit what we already have; instead of blocking existing buildings it allows visibility. Smith noted the 30' setbacks proposed in the Dysart Ranchettes [Rural T-2] that fits the existing setbacks better than the County's 40' that was adopted in 2003. Smith also noted the 0' setbacks allowed in many districts subject to International Building Code [IBC]. The Arts [T-4] and Mobile Home [MH] district also allows 0' setbacks in side yards like Pueblo El Mirage. T-5 like Grand Avenue would also be allowed to go to the property lines as well as T-6 the Urban Core high-rise district. Forrey asked about the impacts on the adjacent properties. Smith said individual site plans may require more. Doede said drainage is an issue as flat as it is. Smith said that is also has to be addressed as a site plan issue. Fire may also require more for access. Taller buildings may also need to set back farther based on the design. Morrison said it was adjusting flexibility. Smith said it opens up flexibility for truly urban development; we are used to suburban development where everything is off the road with parking in the front and off property lines so they don't touch. If we're going up instead of out as proposed in the General Plan, these are typical in these areas.

Forrey asked about maximum setbacks. Chesney said build-to lines are typical in T-5 and T-6 and to some extent T-4. It may be very appropriate along Grand or Thunderbird. Smith said he deliberately took the maximums out because existing development is staggered. We have encouraged zero lot line in front, but the City Engineer does

not want anything in the right of way. He is okay with overhangs in the right-of-way but no supports on the ground. You get into safety issues with objects in the right-of-way. We do not allow signs in right-of-way because of that. Chesney asked what the Commission wanted to see next. Doede suggested cross sections showing how the setbacks look on a site. Chesney said staff could show them within the Code and with photos. Smith referred the Commission to pages 37 and 38 of the SmartCode. 37 shows cross sections and 38 shows overhead view. Forrey said since the suburban neighborhoods are not affected he is comfortable with what is proposed. Smith referred to the use table including new Mobile Home and Commerce Park districts. Forrey said he had experience with school plans and the City had little control. Chesney said that was true for public schools but not charter schools. Smith said schools are conditional in all districts except T-1 & T-2.

3. Proposed code amendments for temporary & off-premises signs

Smith said the packet had memos from staff and articles on Goodyear and Peoria. Many cities have decided with the economics to loosen up on signs to draw more attention to their businesses. We have had concerns from businesses that the City is restrictive on temporary signs. We have had to tell them that Council at the time preferred more permanent facilities but we have looked at some things we do not allow and said maybe they will work depending on how we do it. If we want to allow LED signs animated signs need to be looked at. Billboards might be a good thing in certain areas. We have existing ones on Grand that have proposed to be changed out. Under a conditional use we can decide it may be appropriate. We have some uses off the main roads asking for off-premises signs on main roads pointing down the street. Sandwich sign are common. Codes keep telling people they are not allowed. Staff said they should not be in clear sights or rights-of-way to avoid traffic liabilities. Others are placed on sidewalks in front of businesses but block handicap access. If they are set back on the property they may be appropriate. On temporary banners we allow 30 days. Maybe we should allow 60 days. We do not want to allow them indefinitely because they tear up and become a nuisance. We have not allowed them to hang down in front of arches but required them to be tied to the building and its architecture. Flags in the ordinance are official flags, not decorative ones. Feather-type swooper signs outside the right-of-way should be fine for a period of time.

Chesney said the economic times warrant helping our businesses be successful. That is our charge in community and economic development. Robust business is critical for the community. This is the first part of what we are coming back with which will be a comprehensive signage and way-finding package. We have gone from signs Council thought were undesirable to where we are trying to help

business temporarily but also more permanent basis, perhaps a branding panel that promotes shopping El Mirage. Doede said they would like to see signs on a case-by-case basis. Chesney said if the Commission wants to review the content of all signs you put yourself in a first-amendment issue. You want to approve a basic template and allow staff to review individual signage. If staff turns something down, they can appear to the Manager, the Commission, or the Council.

Smith showed examples of banners hanging across an opening and on freestanding posts, a plastic board, and sandwich signs in the right-of-way blocking visibility. Forrey agreed with Chesney that the Commission did not want to deal with minutia, but he asked that staff consider signs in the right-of-way if reviewed properly. Chesney said the feather signs could be in the right-of-way if they did not block the visibility, but there needs to be rules where and when they are allowed. Garage sale signs may also be reviewed. He preferred administrative review. Given the budget situation, he recognized the benefit of fees for signs but would like help businesses be successful and bring in more sales tax. He wanted to build in the cooperative side in the business-civic relationship rather than the regulatory side and achieve integration of economic and community development, the businesses see us as a partner. Signs are such a big part of a small business. Forrey was concerned that if there is no fee it could get out of control. Smith said the existing fee is \$30 for 30 days so it is not a financial burden. Doede asked how many feather signs would be allowed. Chesney suggested every 50 feet, not cluster 20 every 10 feet. On special events you could line Grand Avenue. It can be a civic benefit to helping business. It could still look good for the Community. Doede did not see with the economics the way they are a lot of negative to making minor amendments to the sign ordinance. The ordinance has to change to fit the times. This is one of those times. We worked aggressively with the original changes and were not counting on more but it really needs to be done. Forrey said we had never adequately addressed garage sales and he saw potential of staff assigned to it. Chesney said we were doing more with less, so he saw no sign administrator soon, but with planning professionals doing up-front work and code enforcement on the street we will have a different sensitivity. His philosophy was one of compliance rather than citation: asking them to move a sign versus citation and expedite compliance.

Beth Simek asked what the next step was since she was fully in favor of the changes and we need to help out businesses here and encourage more to come here. Chesney said with the direction we heard from the Commission, staff would prepare an ordinance and take it to Council and get a copy back to the Commission members.

Koestner said she did not know the Commission had worked on sign changes before. Doede said they spent several months last year before she was appointed to the Commission and recommended

changes. Koestner asked what they objected to. Doede said he had no objections. They needed to give staff authority to ease up on the ordinance a bit. Koestner asked what action was needed. Doede said staff would take it to Council for action on the ordinance.

VI. DIRECTOR'S REPORT

Chesney said that with changes in staff, Community Development and Economic Development functions and staff were now one department. The name is yet to be determined but it will focus on the orderly growth of the City combining what we do into one department.

He said in the future he would like to bring issues such as medical marijuana to the Commission once for discussion and action at the next meeting. There may be exceptions but we will try to get them in your packets earlier so you can do your own research before making recommendation to Council. You will see some small process changes. Also he will bring them reports on what the department is doing to implement their decisions. These are not discussion items but you can ask questions on them. Doede said it was a great idea and be a huge help and answer questions before.

VII. ADJOURNMENT

The meeting adjourned at 7:18 on a motion by Beth Simek seconded by Mary Koesner which passed unanimously.

Mark L. Smith, Senior Planner

Doug Doede, Commission Chair