

**CITY OF PHOENIX PLANNING COMMISSION
REGULAR MEETING
MONDAY, APRIL 14, 2014**

I. CALL TO ORDER/ROLL CALL/INTRODUCTION: Chair Summerhays called the Planning Commission meeting to order at 6:30 p.m. In attendance were Chair Micki Summerhays, Vice Chair David Lewin, and Commissioners George “Ike” Eisenhower and Judy Grillo. There was a quorum. Staff in attendance was Interim Planning Director Laurel Samson and Assistant Planner Steffen Roennfeldt. City Manager Steve Dahl came into the meeting at approximately 7:15 p.m.

II. CHANGES TO THE AGENDA: Commissioner Lewin asked that under OLD BUSINESS, he would like a recap on marijuana facilities.

III. CONSENT CALENDAR

A. Approval of Minutes from March 24, 2014 Regular Planning Commission Meeting

**MOVED BY COMMISSIONER GRILLO, AND SECONDED BY
COMMISSIONER EISENHAUER, TO APPROVE THE MINUTES FROM
MARCH 24, 2014 - REGULAR PLANNING COMMISSION MEETING**

ROLL CALL VOTE AS FOLLOWS:

Ayes: 4

Nays: 0

THE MOTION WAS UNANIMOUSLY PASSED.

IV. NEW BUSINESS:

A. **Major Modification for “Home Depot,” 3345 N Phoenix Road – File Number MAM14-02**

Public Hearing: Chair Summerhays opened the public hearing and asked if there were any conflicts of interest, ex parte contact or specific bias. There were none. Chair Summerhays turned to the planner for the Planner’s Report.

Mr. Roennfeldt said the applicant is in the audience. The request is to modify an existing Site Design Review Permit, File Number SP05-04 because of a change in the type of access ways that affect offsite traffic. The modification is a result of the land being taken by Oregon Department of Transportation (ODOT) for the proposed I-5 Interchange. The loss of land directly affects the Home Depot landscape area and places the property below code for required landscape area. The code standard is 20%; this reduction

brings the landscaped area to 13.5%. The loss of land also affects the ability of trucks to navigate the site. The modifications include a reduction of the landscaped areas south of the Home Depot store, to eliminate one current access point, and to widen a truck path behind, to the east, of the store. The main request is to eliminate the non-conforming status. Adequate turnaround areas for public safety, service and delivery vehicles already exist so that all vehicles may enter the street in a forward manner, even with the loss of one access point. The Planning Department recommends that the Planning Commission approves the modification. If the Planning Commission approves the modification, any future improvements and/or modifications to the site plan will not require Home Depot to provide landscaping to meet current code requirements, but only to maintain the percentage of landscape coverage existing on the site plan approved in connections to this amendment before you.

The applicant for Home Depot said he had nothing to add, but would be happy to answer questions.

Mr. Rick Bianchina., 204 Valley Oaks, Martinez, CA, said he owns the property across from Home Depot and asked if the Commission often agrees to reduce landscape requirements. Chair Summerhays replied that ODOT took a portion of the property to proceed with the Interchange work and created a special situation for the Home Depot.

There was no other testimony. Chairman Summerhays closed the public hearing.

Commissioners' Deliberations: Commissioner Lewin said he was on the advisory committee when Home Depot was being planned. At that time, there were two proposals and Home Depot knew that one of these would eventually occur. Couldn't they have planned additional landscaping at the time to pre-plan for this? Commissioner Lewin also asked if the landscaping in the parking lot could be enlarged. The Home Depot applicant said their corporate parking standards are often much more stringent than a particular city's. They did attempt to work with adjacent property owners to develop an easement for more landscaping, but have not been successful in those attempts. ODOT is re-working water drainage that the detention pond was handling.

MOVED BY COMMISSIONER GRILLO TO APPROVE THE REQUEST FOR A MAJOR MODIFICATION FOR "HOME DEPOT," 3345 N PHOENIX ROAD – FILE NUMBER MAM14-02. SECONDED BY COMMISSIONER EISENHAUER.

ROLL CALL VOTE AS FOLLOWS:

Ayes: SUMMERHAYS, EISENHAUER, GRILLO

Nays: -

Abstain: LEWIN

THE MOTION WAS PASSED, WITH THREE AYES AND ONE ABSTENTION.

B. Amendment to Phoenix Land Development Code regarding Home Occupations and amending Chapter 2 – File Number LDC 14-01.

Public Hearing: Chair Summerhays opened the public hearing and asked if there were any conflicts of interest, ex parte contact or specific bias. There were none. Chair Summerhays turned to Ms. Samson for the Planner's Report.

Ms. Samson said this amendment and the other five on tonight's agenda must meet the criteria to amend:

- Demonstration of compliance with Section 4.7.2;
- Demonstration of compliance with all applicable Comprehensive Plan Policies and map designations;
- Demonstration of compliance with standards and criteria of this Code and other applicable implementing ordinances;
- The proposed changes are not based on a change in neighborhood or community or a mistake or inconsistency in the Comprehensive Plan; and
- Does not impact the Transportation Planning Rule.

Ms. Samson said the Comprehensive Plan encourages the City to nurture Home Occupation development. This amendment moves the requirements and process for the creation of a Home Occupation to a location in the Code that is more intuitive. It proposes a two-tiered use that would allow the Council to reduce the costs for Home Occupations that are "invisible" to the adjoining properties; that is, no one would even know an office existed in the home. She noted the Planning Commission attended a workshop looking at the aspects of this amendment. Commissioner Lewin suggested the language in Section 1, e., iii – be changed to "There shall be no more than eight vehicle visits per day at the home." He suggested the language in Section 1, h., iii – be changed to "Business traffic will be limited to vehicle deliveries which will not exceed two per day." He also suggested the language in Section 1, i., "Enforcement: The Planning Director or his designee may visit ..."

There was no other testimony. Chairman Summerhays closed the public hearing.

Commissioners' Deliberations: There was no further deliberation.

MOVED BY COMMISSIONER LEWIN TO APPROVE, WITH MODIFICATIONS, THE AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE REGARDING HOME OCCUPATIONS AND AMENDING CHAPTER 2 – FILE NUMBER LDC 14-01. SECONDED BY COMMISSIONER GRILLO.

ROLL CALL VOTE AS FOLLOWS:

Ayes: 4

Nays: 0

THE MOTION WAS PASSED UNANIMOUSLY.

C. Amendment to Phoenix Land Development Code regarding Wireless Communication Facilities and amending Chapters 2 and 3 - File Number LDC 14-02.

Public Hearing: Chair Summerhays opened the public hearing and asked if there were any conflicts of interest, ex parte contact or specific bias. There were none. Chair Summerhays turned to Ms. Samson for the Planner's Report.

Ms. Samson said the purpose of this amendment is to clarify uncertainties about requirements, add as allowable in Commercial Highway, strengthen aesthetic requirements, and make the Code easier to understand for the applicant. Currently, Wireless is allowed in Residential and Industrial. The amendment proposes that Wireless must be "attached" where allowed in Residential and City Center. Wireless would be allowed, either attached or stand alone, in Commercial Highway and Industrial. Also, we added "Certain Use" to City Center District and Commercial Highway District directing the applicant to the chapter on Wireless Facilities. She said the impact of the amendment creates additional pressure to co-locate, more opportunities to locate facilities in Phoenix, and the applicant is required to "conceal, camouflage or mitigate" impacts.

Ms. Samson said some corrections need to be made to the Staff Report: Chapter 2.3.10 Special Standards, G., the last line should say **City Center District** (rather than Commercial Highway); and change 3.10.C. Design Standards, 2. Preferred Designs
b. "The applicant must submit a study showing that **attaching to a pre-existing structure is not feasible**"

There was no other testimony. Chairman Summerhays closed the public hearing.

Commissioners' Deliberations: There was no further deliberation.

MOVED BY COMMISSIONER EISENHAUER TO APPROVE, WITH MODIFICATIONS, THE AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE REGARDING WIRELESS COMMUNICATION FACILITIES AND AMENDING CHAPTERS 2 AND 3 - FILE NUMBER LDC 14-02. SECONDED BY COMMISSIONER LEWIN

ROLL CALL VOTE AS FOLLOWS:

Ayes: 4

Nays: 0

THE MOTION WAS PASSED UNANIMOUSLY.

D. Amendment to Phoenix Land Development Code regarding Vehicle and Bicycle Parking and amending Chapter 3.4 - File Number LDC 14-03.

Public Hearing: Chair Summerhays opened the public hearing and asked if there were any conflicts of interest, ex parte contact or specific bias. There were none. Chair Summerhays turned to the Ms. Samson for the Planner's Report.

Ms. Samson said the purposes of this amendment are 1 – the City Council asked the Planning Commission to come up with language that makes it easier for development in the City Center District; 2 - Make it easier to reduce parking spaces in the City Center; 3 - Make it easier to park at Senior Retirement facility; and 4 - correct an error in the chart.

Currently, off street parking can be reduced by 1/3 in the City Center, Senior Retirement allows one space per unit, and there is no listing for Care Facilities. The proposed amendment allows that off-street parking can be reduced by 2/3 by the Planning Director. If a larger reduction is requested, this would require a variance which would be heard before the Planning Commission. The amendment treats Senior Retirement residences the same as other apartments, and Care Facilities are allowed .5 spaces per unit.

After discussion regarding various concerns, the Commission decided to include the following language: **"The minimum number of off-street parking spaces required in the City Center District may be reduced by up to 2/3 with the justification approved by the Planning Director; however, the maximum parking standard of this Chapter applies. These reductions and justifications should be reported in writing to the Planning Commission at their next meeting."**

Ms. Samson said the impacts would be a business-friendly image for the City and more flexibility for downtown development.

There was no other testimony. Chairman Summerhays closed the public hearing.

Commissioners' Deliberations: There was no further deliberation.

MOVED BY COMMISSIONER LEWIN TO APPROVE, WITH MODIFICATIONS, THE AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE REGARDING VEHICLE AND BICYCLE PARKING AND AMENDING CHAPTER 3.4 - FILE NUMBER LDC 14-03. SECONDED BY COMMISSIONER EISENHAUER

ROLL CALL VOTE AS FOLLOWS:

Ayes: 4

Nays: 0

THE MOTION WAS PASSED UNANIMOUSLY.

E. Amendment to Phoenix Land Development Code regarding Temporary Uses and amending Chapter 4 - File Number LDC 14-04

Public Hearing: Chair Summerhays opened the public hearing and asked if there were any conflicts of interest, ex parte contact or specific bias. There were none. Chair Summerhays turned to the planner for the Planner's Report.

Ms. Samson said the purpose of this amendment is to make it easier to start a temporary food business. Currently, our code puts these in the Temporary Building section. A Type II procedure is required and costly, and there are no specific requirements listed. This amendment creates a separate category for "Temporary Food Vendor," with a simpler Type I procedure and there is a specific list of requirements which are: the vendor must be located on one parcel, the primary use on that parcel is approved, the size of the trailer is no more than 170 square feet, any attached awnings can be no more than the size of trailer, adjacent walkways are to be unobstructed and at least 5 feet wide, the food is ready to eat when sold, the trailer cannot displace required parking, it must be parked on an improved surface (asphalt or concrete), and any signs must be attached. Further, the trailer must be currently registered, a Building Permit is required for utility or building, Health Department permits are required, there must be safe and adequate ingress/egress, no vehicular congestion on the street, no adverse offsite impacts, and the permit is limited to 12 months at which time the trailer must be removed or the permit must be renewed.

Ms. Samson said the impact of the amendment is the City displays a business-friendly image and this is an opportunity for someone to test a new restaurant.

City Manager Dahl encouraged the Commission to approve this amendment because it stimulates small business opportunities.

There was no other testimony. Chairman Summerhays closed the public hearing.

Commissioners' Deliberations: There was no further deliberation.

MOVED BY COMMISSIONER LEWIN TO APPROVE THE AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE REGARDING TEMPORARY USES AND AMENDING CHAPTER 4 - FILE NUMBER LDC 14-04. SECONDED BY COMMISSIONER GRILLO.

ROLL CALL VOTE AS FOLLOWS:

Ayes: 4

Nays: 0

THE MOTION WAS PASSED UNANIMOUSLY.

F. Amendment to Phoenix Land Development Code regarding Setbacks and amending Chapters 1, 2, and 3 - File Number LDC 14-05.

Public Hearing: Chair Summerhays opened the public hearing and asked if there were any conflicts of interest, ex parte contact or specific bias. There were none. Chair Summerhays turned to the Ms. Samson for the Planner's Report.

Ms. Samson said the purpose of this amendment is to clarify some confusing language and to reduce a potential burden with vision clearance. Currently, the code states no reference to the Oregon 99 setbacks, there is no definition for measuring vision clearance, it has old figures of 75 feet for distances for vision clearance, a Type II procedure is necessary, and no specific requirements are stated. The old visual clearance of 75 feet is very difficult for residences and businesses to meet. It requires that some lots are prohibited from constructing any type of building in over 5,500 square feet of their property.

The amendment updates definitions for: Building line; Building setbacks; Porch; Yard; Yard Front; Yard Side Exterior; Yard Side; and Yard Rear. We needed to meet the requirements for the Oregon 99 setback which states that all buildings within the Oregon 99 Setback Overlay Zone must be set back no less than 15 feet from the Oregon 99 right-of-way. We also define measuring vision clearance from the foundation to the curb or edge of pavement.

The vision clearance would vary depending on whether it is an arterial or collector street (35 feet), residential (25 feet), a driveway (15 feet), or within the City Center (15 feet). Further, no signs would be allowed in the setback zone.

Ms. Samson said the impact of this amendment is to clarify the code and it offers more flexibility for property owners at corners.

There was no other testimony. Chairman Summerhays closed the public hearing.

Commissioners' Deliberations: There was no further deliberation.

MOVED BY COMMISSIONER LEWIN TO APPROVE THE AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE REGARDING SETBACKS AND AMENDING CHAPTERS 1, 2, AND 3 - FILE NUMBER LDC 14-05. SECONDED BY COMMISSIONER EISENHAUER

ROLL CALL VOTE AS FOLLOWS:

Ayes: 4

Nays: 0

THE MOTION WAS UNANIMOUSLY PASSED.

V. PUBLIC COMMENTS:

City Manager Dahl said he wanted to update the Commission on filling the Planning Director position. Interviews for four candidates were conducted, after which he narrowed the list to two, checked their references. He said his first choice is Matt Brinkley from Michigan who has been invited to come Thursday and Friday to see our City and meet our Staff. Mr. Dahl asked that any Commissioner who wants to meet with Mr. Brinkley should email Mr. Dahl and he will arrange it. Mr. Dahl has informed the #2 candidate of the status. No formal job offer has been made. Mr. Dahl wants to make sure Mr. Brinkley is a good fit.

VI. OLD BUSINESS:

The Commission asked for a recap on marijuana facilities. Ms. Samson stated Staff is posting this information for the public to review for the upcoming public hearing. Land Development Code 14-09 is the one that talks about certain uses, not many requirements other than the hours of operation and distance from schools. Land Development Code 14-10 Adult Business Overlay Zone is the one that applies to all adult businesses, not just marijuana facilities. This prohibits children under the age of 18. Commissioner Lewin asked if State regulations were specific about how distance is measured. Ms. Samson said one regulation states it is property to property. Another is unclear and talks about property to facility. Commissioner Lewin asked about The Greenery. Ms. Samson said the City has hired a new attorney, Ryan Kirchoff, who will be handling this. Commissioner Lewin has concerns about medical marijuana facilities in Mixed Use Zones since residences are allowed in that zone. He said he read the statutes and made special note that one sentence states "local jurisdictions may restrict and may regulate." He would like to know if that gives this City the authority to prohibit medical marijuana facilities in Mixed Use. Again, this question should be referred to our City attorney.

Ms. Samson described a recent visit to the Planning Department by a citizen who owns an oddly shaped lot. The current setbacks restrict his use of his property. He wants to come before this Commission for help, possibly a variance.

VII. COMMENTS FROM COMMISSIONERS:

Commissioner Grillo announced she will be out of town for the next meeting on April 28. Chair Summerhays said we would still have a quorum with three out of four Commissioners.

Commissioner Lewin announced there has been a revision between Council and Urban Renewal. They have added one additional Councilor and will not combine the two groups.

VIII. PLANNING DIRECTOR'S REPORT:

Mr. Roennfeldt presented a map which shows where the hanging flower baskets will be.

IX. ADJOURNMENT: Chair Summerhays adjourned the meeting at 8:45 p.m.

Micki Chair Summerhays, Chair

Matt Brinkley, Planning Director