

**LODI PLANNING COMMISSION  
REGULAR COMMISSION MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, JUNE 23, 2010**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of June 23, 2010, was called to order by Chair Cummins at 7:00 p.m.

Present: Planning Commissioners – Heinitz, Hennecke, Kirsten, Kiser, Mattheis, Olson, and Chair Cummins

Absent: Planning Commissioners – None

Also Present: Community Development Director Konradt Bartlam, Deputy City Attorney Janice Magdich, Associate Planner Immanuel Bereket, and Administrative Secretary Kari Chadwick

2. MINUTES

“April 14, 2010”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Mattheis, Kiser second, approved the Minutes of April 14, 2010 as written. (Commissioners Heinitz and Olson abstained because they were not in attendance of the subject meeting)

“May 12, 2010”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Heinitz, Kiser second, approved the Minutes of May 12, 2010 as written. (Commissioners Kirsten and Mattheis abstained because they were not in attendance of the subject meeting)

3. PUBLIC HEARINGS

- a) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Cummins called for the public hearing to consider the request of a variance to reduce the required three feet setback to two feet at 930 Virginia Avenue.

Director Bartlam introduced the item by reminding the Commission of Mr. Grauman's comments from the last meeting.

Associate Planner Bereket gave a brief PowerPoint presentation based on the staff report. Staff recommends approval of the project.

Commissioner Heinitz asked for clarification on the method in which the City was made aware of these types of violations. He believes that there is a individual that has been turned in for a violation and is now driving around and reporting all the possible violations he can find whether they were legally done or not. Director Bartlam stated that even though the majority of the violations have been reported by the same individual it still does not take away the fact that when this project was built it was in violation of the codes in place at that time. The project is being reviewed against the codes that were in place at the time the shed was built not current codes. Heinitz stated that he thinks this is a waste of city staff time and money.

Commissioner Kirsten asked where the complaints are. Director Bartlam stated that the complaints were originated in the Community Improvement Division.

Chair Cummins asked if this is one complainant or many. Director Bartlam stated that to our knowledge it has been primarily one complainer.

Commissioner Kiser asked if there is action taken tonight on this application can it make it easier for the other applicants or does each case need to be taken separately. Director Bartlam stated that each case needs to be taken separately because they each have separate issues. There is a baseline for applications of this type, so they generally do not take the staff time that other types of applications take.

Commissioner Heinritz asked if it is true that anyone can call into Code Enforcement and file an anonymous complaint and it has to be followed up on. Director Bartlam stated that that is true.

Commissioner Olson asked if a base line can be set to give staff more leeway in these cases. Director Bartlam stated that there are situations where an Administrative Deviation process will work, but not in this case. Staff does not have the authority to grant a variance of this nature.

Commissioner Heinritz stated that there used to be a charge to the complainant to file a complaint. How does that get implemented again? Director Bartlam stated that it would have to be a City Council decision. Heinritz would like to see it become more difficult for those individuals to file a complaint if it does not affect the life, limb, or health and safety of that individual.

Commissioner Hennecke asked if this structure would have been done prior to the ordinance taking effect would the structure be grandfathered in. Director Bartlam stated that if the property owners can produce some sort of evidence showing when the structure was built then that is correct. The city does have an extensive library of aerial photos as well to help with our review. Hennecke asked what the choices are for those individuals that are found to be in violation. Bartlam stated that three options were given to Mr. Litz: one was to tear it down; second was to relocate it such that the setbacks were met; and third was to apply for a variance to make the existing structure legal. Hennecke asked what the fee is for this type of application. Bartlam stated that staff works on an hourly rate, so it will depend on the amount of time put in on each individual project.

Hearing Opened to the Public

- None

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Olson, Kirsten second, approved the request of the Planning Commission for a variance to reduce the required three feet setback to two feet at 930 Virginia Avenue subject to the conditions in the attached resolution.

Commissioner Heinritz encouraged his fellow commissioners to email the City Council Members in regards to this type of complaint system.

Vice Chair Hennecke stated his disagreement with Commissioner Heinritz. The rules are there for everyone and they should be followed. He stated that by approving this application the commission will be opening up the flood gates for of these types of applications in turn causing more work for staff.

*Continued*

The motion carried by the following vote:

Ayes: Commissioners – Heinitz, Kirsten, Kiser, Olson, Mattheis, and Chair Cummins

Noes: Commissioners – Hennecke

Abstain: Commissioners – None

- b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Cummins called for the public hearing to consider the request of Miller Starr Regalia PLC, on behalf of Walgreens Co. for a Use Permit to allow a Type-20 Off-Sale beer and wine Alcoholic Beverage Control License at 1320 West Elm Street.

Commissioner Heinitz recused himself because he has property interest within 300 feet of this project.

Associate Planner Bereket gave a brief PowerPoint presentation based on the staff report. Staff recommends approval of the project.

Hearing Opened to the Public

- Robia Chang, representative for the applicant, came forward to answer questions.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Mattheis second, approved the request of the Planning Commission for a Use Permit to allow a Type-20 Off-Sale beer and wine Alcoholic Beverage Control License at 1320 West Elm Street subject to the condition in the attached resolution. The motion carried by the following vote:

Ayes: Commissioners – Hennecke, Kirsten, Kiser, Olson, Mattheis, and Chair Cummins

Noes: Commissioners – None

Abstain: Commissioners – Heinitz

Commissioner Heinitz rejoined the Planning Commission.

- c) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Cummins called for the public hearing to consider the request of Ahmad Alruosan for a Use Permit to allow a Type-20 Off-Sale beer and wine Alcoholic Beverage Control License at 225 South Cherokee Lane.

Associate Planner Bereket gave a brief PowerPoint presentation based on the staff report. Staff recommends approval of the project.

Hearing Opened to the Public

- None

Public Portion of Hearing Closed

- Commissioner Mattheis asked if the applicant is required to have 12 parking spaces. Mr. Bereket stated that only 9 spaces are required.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Mattheis, Heinitz second, approved the request of the Planning Commission for a Use Permit to allow a Type-20 Off-Sale beer and wine Alcoholic Beverage Control License at 225 South Cherokee Lane subject to the conditions in the attached resolution. The motion carried by the following vote:

Ayes: Commissioners – Heinitz, Hennecke, Kirsten, Kiser, Olson, Mattheis, and Chair Cummins

Noes: Commissioners – None

Abstain: Commissioners – None

- d) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Cummins called for the public hearing to consider the request of Pizza Market Inc. for a Use Permit to allow a Type-41 On-Sale beer and wine (Eating Place) Alcoholic Beverage Control license at 2525 South Hutchins Street, Suite 11.

Associate Planner Bereket gave a brief PowerPoint presentation based on the staff report. Staff recommends approval of the project.

Hearing Opened to the Public

- AJ Bhatia, applicant, came forward to answer questions.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Heinitz, Kiser second, approved the request of the Planning Commission for a Use Permit to allow a Type-41 On-Sale beer and wine (Eating Place) Alcoholic Beverage Control license at 2525 South Hutchins Street, Suite 11 subject to the conditions in the attached resolution. The motion carried by the following vote:

Ayes: Commissioners – Heinitz, Hennecke, Kirsten, Kiser, Olson, Mattheis, and Chair Cummins

Noes: Commissioners – None

Abstain: Commissioners – None

- e) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Cummins called for the public hearing to consider the request of Julio & Aracely Camberos for a Use Permit to allow a Type-41 On-Sale Beer and Wine Alcoholic Beverage Control License at located at 480 South Cherokee Lane Suite E.

*Continued*

Associate Planner Bereket gave a brief PowerPoint presentation based on the staff report. Staff recommends approval of the project.

Hearing Opened to the Public

- None

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner , second, approved the request of the Planning Commission for a Use Permit to allow a Type-41 On-Sale Beer and Wine Alcoholic Beverage Control License at located at 480 South Cherokee Lane Suite E subject to the conditions in the attached resolution. The motion carried by the following vote:

Ayes: Commissioners – Heinitz, Hennecke, Kirsten, Kiser, Olson, Mattheis, and  
Chair Cummins

Noes: Commissioners – None

Abstain: Commissioners – None

- f) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Cummins called for the public hearing to consider the Review and Comment on the Draft Housing Element.

Director Bartlam gave a brief presentation based on the staff report.

Chair Cummins asked if there have been any public comments received. Director Bartlam stated there have not been any comments received to date.

Commissioner Heinitz asked if this will be coming before the Commission again because several people have contacted him unhappy with the document, but they are not here tonight. Director Bartlam stated that a variety of notices have gone out and there should be a few more opportunities for people to comment.

Commissioner Kirsten asked if the City qualifies for housing grants once the Housing Element is adopted. Mr. Bartlam stated that the City currently has a certified Housing Element that is in compliance with State regulations, and it is definitely helpful when applying for housing grants.

Commissioner Olson stated her frustration over the fact that the Housing Element document could be a really great resource if it was utilized to its potential, but what actually happens is it becomes a cost center for cities and a stick to be used by the state against the city. It becomes an unrealistic document based on the numbers that we are given. Bartlam stated that the document is over regulated by the state with very little room for jurisdictional policy and looks very similar to the other Housing Elements up and down the state.

Commissioner Mattheis stated his agreement with Commissioner Olson's comments. He asked if the Housing Element gave some structure for more projects for affordable housing like the senior project brought forward earlier this year and working with agencies like the LOEL Center? Director Bartlam stated that it does do some good because it will allow the City to compete at the state level for the funds. The City received \$800,000 from the state for a down payment assistance program in part because of the current document and the City is in the process of submitting a grant application

to the state for owner occupied housing rehabilitation assistance. The state gives points for having a certified Housing Element. Staff has tried to take a realistic look at what our constraints are and what can be done to reduce some of those constraints. One of the items staff has looked at historically is the Impact Fee Program and how it affects the multi-family housing. With the update of the program staff feels that it will encourage or at least not penalize the developers that would like to develop multi-family housing creating a more level playing field. Mattheis asked if a project wants to qualify for the incentives that are outlined in Program 1.1: Revised Zoning Ordinance on page 4-3, do they need a piece of all of the items to apply or is it a pick and choose? Bartlam stated that it is pick and choose. Mattheis would not like to see all of the low income housing be senior. He would like to see more incentive added for the other types of affordable housing. Bartlam stated that it can be looked at.

Hearing Opened to the Public

- Anne Cerney came forward to state her approval of the document and added that it is the best one she has seen by the City of Lodi. She also added that she agrees with Commissioner Olson's statement earlier. Ms. Cerney stated that her comments will focus mostly on affordable housing. There is a provision in the government code to extend the statute of limitations for objecting to a Housing Element document if it is brought forward in support of affordable housing. She stated that you could deter people from challenging an affordable housing project by putting verbiage in that the people that sue to halt the project will have to pay the attorney fees. An inclusionary housing clause would be something that could be added. When a project is done with affordable housing involved it needs to be done thoughtfully.

Public Portion of Hearing Closed

4. PLANNING MATTERS/FOLLOW-UP ITEMS

Director Bartlam invited the Commissioners to have a look at phase one of the Lodi Avenue Street Improvements it was opened up on Monday.

5. ANNOUNCEMENTS AND CORRESPONDENCE

None

6. ACTIONS OF THE CITY COUNCIL

Director Bartlam stated that staff is available to answer questions.

7. GENERAL PLAN UPDATE/DEVELOPMENT CODE UPDATE

Director Bartlam stated that the Draft Zoning Map is getting its final review and will be the basis for the new code. Staff is gearing up for more Planning Commission action on the development code.

8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

Commissioner Kiser gave a brief report regarding the Bella Terra Kiosk item that was approved today.

9. ART IN PUBLIC PLACES

Commissioner Kirsten gave a brief report regarding the interactive art project. Ten sculptures are chosen and placed according to a plan for 90 days at a cost of \$22,000. There are around 150 or so sculptures to choose from.

10. COMMENTS BY THE PUBLIC

None

11. COMMENTS BY STAFF AND COMMISSIONERS

Chair Cummins congratulated Manny on his promotion to Associate Planner. He also added his thanks to the Commission for allowing him to be the Chair for the last year.

12. REORGANIZATION

a. Planning Commission Chair & Vice Chair

MOTION / VOTE:

The Planning Commission, on motion of Chair Cummins, Kirsten second, approved the nomination of Vice Chair Hennecke for the 2010/11 Planning Commission Chair position. There being no other nominations the motion carried by the following vote:

Ayes: Commissioners – Heinitz, Hennecke, Kirsten, Kiser, Olson, Mattheis, and  
Chair Cummins

Noes: Commissioners – None

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Kiser second, approved the nomination of Commissioner Olson for the 2010/11 Planning Commission Vice Chair position. There being no other nominations the motion carried by the following vote:

Ayes: Commissioners – Heinitz, Hennecke, Kirsten, Kiser, Olson, Mattheis, and  
Chair Cummins

Noes: Commissioners – None

Discussion ensued regarding Commissioner Mattheis not seeking reappointment and how he has graciously agreed to stay on the commission until the position is filled which should be another 45 days or so.

13. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 8:07 p.m.

ATTEST:

Konradt Bartlam  
Planning Commission Secretary