

Community Services Advisory Commission
Special Meeting
City Hall - Community Room
777 Cypress Avenue
Redding, California
January 11, 2011, 4:00 p.m.

MINUTES

ATTENDANCE

The meeting opened with the following Commissioners present; Leona McCoach, Jason Waybright, Adam McElvain and John Wilson. Commissioner Susan Hinz was absent.

PUBLIC COMMENT

None.

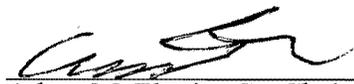
LAND USE TRAINING WITH PLANNING COMMISSION

At the hour of 4:07 p.m., Jim Hamilton, Director of Development Services and City Attorney Rick Duvernay conducted a Land Use Training Workshop (attachment).

At the hour of 5:40 p.m., the training completed and Planning Commission discussion was held. At 5:45 p.m. Commissioner Waybright excused himself from the session.

ADJOURNMENT

There being no further business, at the hour of 5:55 p.m., Vice Chair McElvain declared the meeting adjourned.



Adam McElvain, Co-Chair

CITY OF REDDING
INTERNAL COMMUNICATION

DATE: January 6, 2010 CODE: N/A
TO: Planning Commission
FROM: Jim Hamilton, Development Services Director 
SUBJECT: Land Use Training Workshop

At its December 14, 2010, meeting, the Planning Commission (Commission) reviewed training opportunities during the coming year relevant to the Commission's responsibilities and duties, and this workshop session will be the first in the series.

Given the breadth of the topics, we will only touch the surface in our presentation, but the Commission should ask for more information on any topic of particular interest that may arise during the discussion. The training will be informal and flexible, and the Commission is encouraged to bring up for discussion projects or issues that have arisen in the past which are relevant to the topics. While the workshop is focused on the needs of the Planning Commission, members of the Community Services Advisory Commission with an interest in the land use process and the public will also be attending.

Background

The purpose of good land use planning is to ensure the logical development of the community, consistent with the desires of the residents. In turn, a comprehensive legal framework governs land use decisions to ensure a level playing field for all those affected by the land use process. A planning commission's role is to make decisions consistent with the adopted policies and plans and within that legal framework, while also understanding the unique needs of the community. This places great responsibility on the Commission and on individual Commissioners, and the goal of this training will be to provide you with basic information to help you meet those responsibilities as effectively as possible.

The Planning Commission Role and State Planning Law

► Municipal Police Powers

Police power describes the general authority of a state to govern its territory through laws and regulations intended to protect the public's health, safety, and welfare. In the United States, police power is traditionally regarded as resting with the states. By virtue of the Tenth Amendment to the U.S. Constitution, "The powers not delegated to the United States by the Constitution, nor prohibited

by it to the State, are reserved to the States respectively, or to the people." States can exercise their police powers directly through state legislation or by delegating specific powers to local governing units within the state, such as cities or counties.

Zoning authority is one example of police power that California has delegated to cities. The "delegation" can be in the form of a state statute requiring local government to do something or in the form of an enabling statute. Other examples of so-called "police power ordinances" can include noise ordinances, junk control, erosion controls, stormwater ordinances, traffic regulations, licensing of various professions, and so on. While the organization and administration of a local police department might be characterized as "police power," it should not be confused with the broader sense of the phrase which addresses the overall authority to govern to protect public health, safety, and welfare.

In order to be valid, any local regulation adopted to carry out the police power must be administered following procedural and substantive due-process considerations. It is these considerations that form the background of the work and authority the Commission exercises in carrying out its duties.

► *State Planning Laws and the Role of the Commissioner*

The idea of appointing a group of laymen to make decisions and recommendations about land use planning originated at the turn of the century. Government reformers, seeking to take local government out of the hands of party "machines," reorganized administrative procedures in an attempt to reduce political influence on decisions. One solution was to create a planning commission, made up of appointed citizens, that would be responsible for setting the community's development direction. The importance of planning commissioners in shaping the future of the community cannot be understated, and in California, because of its diversity and complexity, this is particularly challenging. Planners and planning commissioners must consider a multitude of competing public-policy objectives as they plan for a community's current and future needs. This is made even more challenging because of the significant financial and property rights issues associated with the use and development of property in a community.

Because the Commission focuses on community planning issues, it is the primary intermediary between the public and the City Council. When matters run smoothly, the Commission has a low profile. However, when there is a controversy, it is in the thick of things, sorting through the facts to make a decision. This places a great responsibility on the Commission in considering projects and making decisions in the best interests of all concerned. California law incorporates many provisions related specifically to the role of planning commissions in the land use decision process. Although state law does not require that a community have a planning commission, almost all do. This fact reflects the recognition by the public and City Council that a planning commission serves an extremely valuable and important role in shaping the future of the community.

► *The General Plan*

The General Plan is a community's blueprint for future development. It describes a community's development goals and policies. It also is the foundation for land use decisions made by the planning commission, city council, or board of supervisors. The Redding General Plan was adopted in 2000

and covers the period 2000–2020. A general plan is a set of long-term goals and policies that the community uses to guide development decisions. Although the plan establishes standards for the location and density of land uses, it does not directly regulate land use. The Zoning Ordinance is often confused with the General Plan, but is actually the regulatory mechanism for implementation of the General Plan. Under the Zoning Ordinance, development must comply with specific, enforceable standards, such as minimum lot size, maximum building height, minimum building setback, and a list of allowable uses. Zoning is applied lot-by-lot, whereas the General Plan has a communitywide perspective.

▶ *California Environmental Quality Act (CEQA)*

CEQA, or the California Environmental Quality Act, is a statute that requires state and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those impacts, if feasible. Most proposals for physical development in California are subject to the provisions of CEQA, as are many governmental decisions which do not immediately result in physical development (such as adoption of a general or community plan). Every development project which requires a discretionary approval (use permit, site permit, or subdivision) will require at least some environmental review pursuant to CEQA, unless a specific exemption applies.

▶ *Subdivision Map Act*

In general, land cannot be subdivided in California without local government approval. Dividing land for sale, lease, or financing is regulated by local ordinances based on the state Subdivision Map Act (commencing at Government Code Section 66410). The local general plan and the zoning, subdivision, and other ordinances govern the design of the subdivision, the size of its lots, and the types of improvements that will be required as conditions of approval. There are basically two kinds of subdivisions: (1) parcel maps, which are limited to divisions resulting in fewer than five lots (with certain exceptions, such as those for commercial land divisions), and (2) subdivisions (or tract maps), which create five or more lots.

Subdivision approval is conditioned upon the subdivider providing public improvements, such as streets, drainage facilities, and water supply or sewer lines to serve the subdivision. The basis for these improvements—scope, size, location, and general configuration—is established with the City's General Plan. They may also be required to dedicate park land to the community. These improvements must be installed or secured by bond before the city will grant final map approval and allow the subdivision to be recorded in the county recorder's office. The City of Redding recently adopted a new Subdivision Ordinance as our local implementing tool of the Subdivision Map Act (SMA) and General Plan.

▶ *The Importance of Findings*

Land use decisions are frequently challenged in court. Accordingly, courts require an adequate "record" to use in the case judicial review is needed, especially when the city is acting in an adjudicatory or non-legislative role. This means that the documentation supporting an approval or

denial of a project must include findings that explain how the city processed the evidence presented when reaching its decision. The courts want to see the method by which the city analyzed the facts and applied its policies in reaching a particular conclusion. In other words, "findings" are the legal "footprints" which the Commission must leave to bridge the gap between the raw data considered by the Commission in reviewing a discretionary land use approval (site development permit, use permit, subdivision map, etc.) and its ultimate decision. They reflect the Commission's analysis of facts, regulations, and General Plan policies used to arrive at the decision.

► *Development Requirements and Exactions – The Nexus and Proportionality Link*

An exaction is a cash payment or contribution of property or improvements required of a developer in order to offset a development's demands on local government infrastructure and public service(s). An exaction is a condition for receiving development approval from the local unit of government. Exactions in the form of cash payments are also called impact fees or fees in lieu of dedications of land, such as park-land dedications.

From time to time, landowners have argued that certain exactions required by local governments are overly burdensome and constitute a regulatory "taking." Claims that exactions are takings of private property have made their way to the U.S. Supreme Court. Two of the most notable cases involving exactions are *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987) and *Dolan v. City of Tigard*, 512 U.S. 374 (1994). Collectively, the Court's decisions in the cases have established two important tests as to whether or not an exaction constitutes a regulatory taking.

The first test an exaction must satisfy is the presence of an "essential nexus" between the exaction and the public interest that the exaction is intended to serve. Essential nexus means that if there is a connection between the fee charged or the property required and the public impact the proposed development will have, the exaction is not a regulatory taking.

The second test is that the exaction must be roughly proportional to the extent of the project's impact. Put differently, if the amount of the impact fee or the value of the property or improvement required to be contributed is nearly equal to the cost of the facilities or work needed to mitigate the impacts of the proposed development, the exaction does not amount to a regulatory taking.

Next Session

The discussions on February 8 will focus on the City of Redding's responses to implementing the requirements of state law discussed above and will include more in-depth discussions of the following local planning policies, programs, and tools:

- The General Plan
- The Municipal Code – Zoning and Subdivision Ordinances
- Infrastructure and the Master Plans – Parks, Utilities, Transportation

The topics noted below will be addressed at the following two Commission meetings:

March 8 - The Brown Act and Local Commission Procedures

- ▶ Brown Act Overview/Conflicts of Interest
- ▶ Local Adopted Commission Protocols and Procedures

April 12 - Working Relationships

This section will focus on common practices and approaches to ensure positive and productive working relationships between the Commission and others who participate in the land use process.

JH:el

Attachment

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