

**Minutes of the Regular Meeting of the
Lemoore Planning Commission
September 8, 2008**

Vice-Chairperson Kendall called the meeting to order at 7:00 p.m.

Attendance: Commissioners Norgaard, Elgin, Clement, Kendall, Planning Director Smyth and Assistant City Attorney Neufeld

Absent: Commissioner Ormonde

Public Comments and Inquiries: There was none.

Approval of Minutes of Meeting of August 25, 2008:

It was moved by Commissioner Clement, seconded by Commissioner Norgaard to approve the minutes of August 25, 2008 as submitted.

AYES: Voice vote
NOES: None
ABSTAIN: None
ABSENT: Ormonde

Continue discussion on Tentative Parcel Map 2008-04/ Categorical Exemption 2008-14 by New Rooms Enterprises

Mendiola stated that this item was on the August 25th agenda and was tabled at that time because certain questions from the applicant concerning the existing easement as noted on page 3 of 3 would have to be answered by public works staff that was not in attendance. He stated that since that meeting, Planning and Public Works staff met with Mr. Mell regarding his concerns about the easement. Mendiola stated that at that meeting, Public Works Director David Wlaschin explained that item #2 of page 3 of 3 of the staff report was purposely left as is because the property is owned by three different owners and it would be up to them to decide. He stated that it was decided that the existing easement would continue to go through Parcel A to the westerly property and connect to the 28 ft. easement which is now identified on the redline drawing.

Mr. Mell of 2090 N. Winery, Fresno stated that this resolved their issues and answered their questions on the easement and they are in full agreement with this.

It was moved by Commissioner Clement, second by Commissioner Elgin to approve Resolution #2008-18 pertaining to Tentative Parcel Map #2008-04 and Categorical Exemption #2008-14 with the conditions as stated.

AYES: Clement, Elgin, Norgaard, Kendall
NOES: None
ABSTAIN: None
ABSENT: Ormonde

Continue discussion on proposed Amendments to the 2030 General Plan and Amendments to Section 9-7 Residential Chapter and Section 9-2-2 of the Lemoore Municipal Code regarding fences, carports, accessory structures, definitions and other provisions

Smyth stated that at the Planning Commission meeting of August 25, 2008, discussed the updates to Section 9-7, residential districts and 9-2 definitions of the zoning ordinance pertaining to carports, accessory structures, fences, density, lot sizes and other minor provisions and modifications to the 2030 General Plan and held a public hearing. She stated that the Planning Commission continued the

item and directed staff to revise and bring back for review additional revisions that would allow for carports in the front yard setback to address concerns brought up during the meeting.

Smyth stated that staff's goal was to help clarify the Ordinance and revise sections more comprehensively and address issues that the community wanted to change while maintaining the overall purpose of the Ordinance in light of City goals and objectives and the 2030 General Plan's original intent. She stated that in addition, to the Planning Commission and public comments heard during that meeting, direction provided by City Council members had been incorporated.

Smyth stated that the draft ordinance represents staff's original recommended changes to the Ordinance and incorporates additional changes requested by the Planning Commission at the August 25, 2008 meeting. She stated that those comments are highlighted in blue.

In response to Clement's question regarding the language, Smyth stated that carports that set in the front yard setback shall not have side walls which block pedestrian visibility.

Smyth stated that the General Plan shows the front yard fences to be 3 feet and after reviewing and measuring, front yards fences should be at least 3 ½ feet.

Smyth stated that if you convert a garage space into livable space, then they should comply with design standards of the main structure and the building codes because if you have a water heater in this space you now have to get the gases safely out of the building.

Planning Director Smyth stated that one of staff's concerns is if there will there be any limitations on the number of carport structures per site. They stated that they would like to limit to one per site.

Brian Raschiatore of 1000 N. Lemoore Avenue and 29 to 109 Faun Lane stated that his concern is the portion of the General Plan which talks about gated communities and whether they are allowed. He stated that about 3 months ago there was a stabbing at the apartments on Faun Lane and that was when he decided to improve the property which includes a proposed gated fence around the property. He stated that this would be in line with making the community nicer, with the cemetery across the street, and the new Walgreens down the street and the renovated Pioneer Square. Raschiatore stated that he thought that this was a good time to implement the improvements. He showed the Commissioner's the site plan which he would like some comments back on before he submits to the Planning Department for review.

Commissioner Elgin asked Director Smyth if the site plan would be going before the Planning Commission or would it be an administrative approval. Smyth stated that it would not go before the Planning Commission because it is an existing site and so it will be an administrative approval. She pointed out that the project will have three separate entrances and so will have three separate gates. Smyth stated that other apartment projects that have come before the Commission have been told that they would not be allowed to be a gated community as per the 2030 General Plan policy.

Mr. Raschiatore stated that he was trying to have his project approved under the new General Plan and that they could have lock boxes for public works, have the gates on timers, have the gates open during business hours and have emergency lock boxes for police/ fire.

In response to Kendall's question regarding converted garages, Planning Director Smyth stated that most older homes were built with no garages and would have to put a carport structure in the front of their house to meet the covered parking requirement. She stated that the newer homes are now being built with two or three garages.

Commissioner Elgin asked if there is something that states that you cannot store items in a carport. Ms Smyth stated that the definition of carport is for the storage of vehicles.

Commissioner Kendall stated that she appreciates the fact that Mr. Raschiatore wants to improve the property but she has concerns about overturning a policy of the General Plan and if he could find a way to work his project without having it gated that would be her first choice.

Commissioner Elgin stated that she feels that if someone wants to gate their area, they should be able to, but she has lived in a gated community and the gates never worked. She stated that if he wants a gate he should be allowed to have a gate and she believes it should slide rather than swing.

Commissioner Clement stated that he liked the idea of the gate being opened during the day and for security purposes closed at night.

Mr. Raschiatore stated that each tenant will have a garage door opener and a code for the box at the gate. Planning Director Smyth pointed out that each block of apartments will have its own gate, which means a total of three gates with three separate entrances that do not connect to one another. She stated that there is not enough room for four two cars which Fire Department requires to let someone else go through.

Commissioner Clement asked if he would need three different gates for ingress and egress and would a vehicle have to stop partially out in the street waiting on a the gate. Raschiatore stated that this is why he is issuing the radio wave openers. Clement stated that he thought the gate would be recessed enough that the vehicles waiting for the gate to open would be off the road.

Commissioner Elgin questions if it were possible to set it back. Mr. Raschiatore replies that the trash dumpsters that were just installed are there in the front. Planning Director adds that he would also be losing parking. City Attorney Don Neufeld stated that the Commissioner's need to remember that even though Mr. Raschiatore has brought in this information on his project, he is requesting a change in the General Plan Policy that can not be reviewed in light of the current policy and the Site Plan is not on the Agenda for tonight's meeting.

In response to Norgaard's question regarding tabling Raschiatore's item, Commissioner Norgaard questioned if this item could be tabled. Planning Director Smyth stated that Raschiatore's request would require a General Plan Amendment along with processing fees and an application submitted to the Planning Department. She stated that she was discussing this proposal with Mr. Raschiatore and mentioned that as a member of the public he could bring his question about the policy to the Commission as it is discussed in the proposed Chapters slated for amending..

Attorney Don Neufeld stated that he previously was trying to make the point that under the current General Plan Policy this would not be allowed, but that he could bring in a site plan to be reviewed by staff.

In response to Norgaard's question regarding temporary carports as shown in the pictures presented being legal, Smyth stated that they are not legal by strict interpretation, but for the last 10 years the Building and Planning Departments interpreted carports not attached as temporary and therefore not subject to review.

Commissioner Elgin stated that in the Staff Report Item #5, page 5, item D, #5, where Smyth has inserted "front" and is not located on a corner lot", she asked why not. Planning Director Smyth stated that the corner is highly visibility from the street and the original plan talked about prohibiting highly visible carports which are difficult to incorporate on corner lots. She stated that corner lots also cause a challenge for ingress from one street and egress to the other.

Attorney Neufeld stated that if it is the Planning Commission desires to limit carports to one per lot, he would suggest to make the changes in the sections in the ordinance referring to permitted uses under administrative approval, permitted uses under Conditional Use Permit, stating " a permanent Carport not more than one per lot". Planning Director suggested "per dwelling unit" since some refer to multi-family.

Commissioner Elgin asked if anything refers to Public Utility Easement and, if not, it should. Smyth stated that the place where that would occur would be in setbacks and suggested to add "such structure shall not be located within a public utility easement". Norgaard asked if the easement would vary. Smyth stated that in almost all cases it would be 10 feet behind the property line in newer subdivisions.

Commissioner Elgin stated that her understanding and the consensus was that the temporary carports were not going to be grandfathered in at all. Smyth stated that additional language was added stating that existing carports, visible from the street shall be able to stay in place for up to 2 years from the effective date of this ordinance and then shall be removed per the Planning Commission's previous direction. Permanent or semi-permanent structures that did not comply may remain so long as maintenance is continued and until property changes hands. Commissioner Norgaard questioned if language was eliminated would Council place it back in. Smyth stated they could.

Attorney Neufeld stated that the ordinance could read "immediate removal", but if someone wanted to contest it and request reimbursement, two years is a reasonable time to recover the cost. Commissioner Clement asked if code enforcement will be policing this. Smyth stated that it was suggested by our Attorney and City Council has agreed there will be a list City wide with the effective date and the clock start time.

Planning Director Smyth asked if Commission wants to address the issue of converting garage space at all or leave it as is. Commissioner Norgaard stated that as exists as long as they have one covered and one uncovered space it should be fine. Planning Director Smyth stated that under current ordinance you are allowed to convert garage space as long as you have one covered spot on site.

Commissioner Elgin asked if code enforcement was going to be looking into the homes with converted garages and no carports. Smyth stated that usually when an owner goes to sell and the bank realizes that they did not get a permit, they will have to go to the Building Department and at that time will be given options on the violation. In response to Norgaard's question regarding converting a garage, Smyth stated to convert the whole garage you would have to have a carport or a single garage. She stated that currently there is no allowance for carports to be built in the front yards but if Council approves what you have here they can build it in the front.

Smyth suggested adding the language that if the garage space is converted into occupiable space then the design standards should meet the main structure standards. Norgaard stated that he would like to see that language in there. Smyth stated that the suggested language be added to item E of Page 7 to read that "if you convert garage space into occupiable space then it must comply with the design standards of the main structure listed in G1 above of as well as building codes."

Commissioner Elgin stated that she would like tot lots be approved by the Parks and Recreation Commission instead of the Parks and Recreation Department. It was the consensus of the Commission to change Page 22 regarding tot lots.

Smyth stated that she heard some discussion on Page 4 about gated communities and if we want to make any changes and I don't think we have enough information to adequately change the language in the Zoning Ordinance about gated communities

Elgin stated that on page 21 item G regarding landscape areas she stated that it's taking the multi-family area from 35% to 50% landscape. Smyth stated that the old policy states 35% and this gets us into conformity with the General Plan but looked at the General Plan change. She stated she would double check the figures and make sure they are correct in compliance with the General Plan.

Mr. Clement asked if we make a suggestion to Council. Planning Director Smyth stated to change the policy itself policies CD-I-47 and CD-I-56 regarding the prohibition of gated communities.

Commissioner Elgin questioned Attorney Neufeld if they could make a recommendation to Council to review on case by case bases.

Attorney Neufeld mentioned that Planning Commission make a motion to recommend that the City Council reconsider Amending the General Plan to permit gated communities either for single family or multi-family on case by case bases by Site Plan Review or Conditional Use Permit and let them decide if they want to make an adjustment to the ordinance and if they choose to they could send back to you to work out specifics.

Planning Director Smyth mentioned that a Conditional Use permit would be the only way that the item would come before Planning Commission and Council. She asked Attorney Neufeld if it would be a general direction that Planning Commission recommends that Council make a change on the General Plan Policy. Attorney Neufeld stated that it should be in the minutes and sent to Council as part of the recommendation. He recommended to put it in the Resolution. Commissioner Elgin suggested that it be put into the Resolution. Commissioner Norgaard stated that he thought we needed it. Commissioner Kendall mentioned that they had worked on it for a very long time during the General Plan update process, and there was a reason they come up with the General Plan Policy and they need to follow it, or what is the point of have one. Commissioner Clement asked Planning Director if she thought that the policy was thought through. Planning Director Smyth mentioned that on the west side they did not want gated communities because it would make others feel excluded and create areas of the haves and the have nots.

Commissioner Clement stated that he went through the process for the General Plan and he did not want to go against something that they worked hard on. He stated that the gentleman made some valid points and felt it was his obligation to listen to him and was trying to think things through. Commissioner Kendall stated that she thought that was the reason that they should pass it to City Council to see if they would reconsider and let them change the General Plan policy. She stated that she would be comfortable working with that.

Planning Director Smyth stated that based on tonight's discussion she would like to review those items the Commission requested changes, additions, and deletions in the draft City Council Resolution from the agenda packet.

Smyth stated that under Community Design Element Commission suggested to Modify policy CD-I-45 on page 3-33 to add a fifth bullet to state that "Homes built in pre-existing neighborhoods should be built in similar scale and design to existing neighborhood as determined by the Planning Department."

Smyth stated that Commission suggested replacing the entire policy CD-I-49 to read "Portable car shelters which are visible from the street shall be allowed for no more than two (2) years from the effective date of an implementing Ordinance, upon which time they shall be removed from the premises. One permanent carport structure may be allowed per household in front or side yard setback areas, with the exception of corner lots, so long as their design matches that of the housing unit structure and are not located in a public utility easement."

Smyth stated that Commission has requested to add an item that asks the Council re-evaluate the gated community policy to possibly allow under certain circumstances through a conditional use permit. She stated that the currently policy CD-I-47 reads Prohibit gated communities that restrict public access to multi-family and single family residential areas. She stated that the General Plan stated that "Developers build gated communities to appeal to buyers' desire for security and prestige. However, studies indicate that safety in gated communities is more illusion than reality. Crime rates in gated communities are not necessarily lower than non-gated communities. Gated communities are also criticized by sociologists as being exclusionary and reinforcing differences along class or racial lines. In addition, having physical barriers placed between different neighborhoods often impairs bicycle and pedestrian connectivity.

Other changes in the draft City Council Ordinance would be as agreed throughout the evening.

Attorney Neufeld stated that the Planning Commission recommends to City Council to adopt the Resolution, adopt the ordinance, and third recommending they re-evaluate the gated communities policy to allow on a case by case as a Conditional Use Permit. Commissioner Elgin stated that if Council wanted Planning Commissioner to come up with guidelines they would be happy to do it.

It was moved by Commissioner Elgin, seconded by Commissioner Norgaard, to recommend to Council to approve the draft Resolution with the proposed changes

AYES: Elgin, Norgaard, Clement and Kendall
NOES: None
ABSTAIN: None
ABSENT: Ormonde

It was moved by Commissioner Norgaard, seconded by Commissioner Clement, to recommend to City Council to approve the draft Ordinance with the proposed changes

AYES: Norgaard, Clement, Elgin and Kendall
NOES: None
ABSTAIN: None
ABSENT: Ormonde

It was moved by Commissioner Norgaard, seconded by Commissioner Elgin, to recommend to City Council to reconsider the two gated communities policies as discussed

AYES: Norgaard, Elgin, Clement and Kendall
NOES: None
ABSTAIN: None
ABSENT: Ormonde

Planning Director's Report:

Smyth stated that included in the packet is a new section called Activity Update which will replace the email of many prominent planning points as Commissioners do get various questions if certain projects have been approved. Since some projects are administratively approved by staff only this should help Commission's be aware of other projects. She continued that also included in the packet is a handout from Kings County Association of Governments on the Regional Housing Needs Allocation Plan being submitted to the State for approval.

Commission's Report and Request for Information:

Commissioner Elgin asked when Leprino will build the no stink tanks. City Manager Jeff Britz commented that his understanding is that the tanks are built but not yet being used. Commissioner Clement questioned if the City Manager has heard of any other uses for the Bob Williams Chevrolet facility. City Manager responded that he has not heard of anything. Commissioner Kendall question Planning Director on any information regarding tot lots being installed in the Silva 8 or 10 area which should already be constructed.

Adjournment: The meeting adjourned at 8:50 p.m.