



PLANNING COMMISSION

Department of Planning and Development Services P.O. Box 27210 Tucson, Arizona 85726-7210

Approved by Planning Commission
On (Draft)

Date of Meeting: June 2, 2010

The meeting of the City of Tucson Planning Commission was called to order by Rick Lavaty, Chair, on Wednesday, June 2, 2010, at 6:00 p.m., in the Mayor and Council Chambers, City Hall, 255 W. Alameda Street, Tucson, Arizona. Those present and absent were:

1. ROLL CALL

Present:

Rick Lavaty, Chair	Member at Large, Ward 1
Shannon McBride-Olson, Vice Chair	Member, Ward 2
Ralph Armenta	Member, Ward 5
Steven Eddy	Member, Ward 6
Joseph Maher	Member at Large, Ward 3
William Podolsky	Member at Large, Ward 4
Catherine Applegate-Rex	Member at Large, Ward 5
Thomas Saylor-Brown	Member, Mayor's Office
Daniel J. Williams	Member, Ward 1
Craig Wissler	Member, Ward 3

Absent:

Rich Michal	Member at Large, Ward 6
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Staff Members Present:

Ernie Duarte, Planning and Development Services Department, Director
Jim Mazzocco, Planning and Development Services Department, Planning Administrator
Adam Smith, Planning and Development Services Department, Principal Planner
John Beall, Planning and Development Services Department, Principal Planner
Tom Mahon, City Attorney's Office, Senior Assistant City Attorney
Erin Morris, Planning and Development Services Department, Project Coordinator
Ceci Sotomayor, City Clerk's Office, Secretary

2. MINUTES FOR APPROVAL: APRIL 7, 2010

It was moved by Commissioner McBride-Olson, duly seconded, and carried by a voice vote of 10 to 0 (Commissioner Michal absent), to approve the April 7, 2010, minutes as submitted.

MINUTES FOR APPROVAL: MAY 5, 2010

It was moved by Commissioner McBride-Olson, duly seconded, and carried by a voice vote of 10 to 0 (Commissioner Michal absent), to approve the May 5, 2010, minutes with the following corrections:

- Page 6, last paragraph, revisit wording in the whole paragraph.
- Page 7, 8th paragraph, first sentence, change thirty-eight ~~hundred~~ to thirty-eight thousand.
- Page 7, 8th paragraph, last sentence, include the word hundred to read: twenty-five hundred to five thousand beds.
- Page 8, 5th paragraph, revisit wording in the whole paragraph.
- Page 12, 8th paragraph, first sentence, change ~~Deputy Director~~ to Planning Administrator.
- Page 35, 4th paragraph, first sentence, change ~~Mr.~~ to Ms.

3. LAND USE CODE TEXT AMENDMENT – REDUCTIONS IN REQUIRED NUMBER OF MOTOR VEHICLE PARKING SPACES.

Adam Smith, Planning and Development Services Department, Principal Planner, gave the presentation on the Infill Improvement Land Use Code Text Amendments – Reductions in the Required Number of Motor Vehicle Parking Spaces. Mr. Smith said the Planning Commission conducted a public hearing May 5, 2010. After the Planning Commission closed the public hearing, consideration for this item was continued to the June meeting.

Mr. Smith defined the Parking Mitigation Plan, provided some background on the plan, the eligibility criteria, and also gave a brief description on the proposed text amendment.

Mr. Smith added that staff identified two issues with Section 3.3.8.6. and explained the changes made to those issues. He said the first issue was that the eligibility criteria was too restrictive. Staff clarified the issue by creating two separate sentences which stated there would be one distance requirement for outdoor seating areas and one distance requirement for loud speakers or music. He said the second change was to revise a draft that required a Parking Mitigation Plan, when there was a change to a use that was more intense than the use shown on the approved Parking Mitigation Plan. Staff made changes to the draft, which was reflected under item D-3 of Attachment A. He added, they would need to contact the zoning enforcement office to see if the distance requirements shown in the ordinance were actually the same distance requirements currently in the code for alcoholic beverage sales in conjunction with a restaurant use.

Discussion, questions, and comments were made regarding the following:

- Uses for alternate hours and the review procedure
- Section 3.3.8.6.A.4.b., the word usage of “greater.” Comment was made that the word was too vague and needed to be clarified and more specific. Also, the Dark Sky Ordinance should be reviewed in relationship to this section.
- Section 3.3.8.6.A.4.c., the word usage of “loudspeakers.” Comment was made that the word should state “outdoor loudspeakers.”
- Section 3.3.8.6.A.4.d., the word usage of “excessive” in the statement: “The use will not cause excessive drive-through traffic.” Comment was made that any drive-through traffic was considered excessive, and if that word could be defined or removed.
- Section 3.3.8.6.D.1.a., the word usage of “glare.” Comment was made that that word “glare” was not the proper word to be used in that sentence and should be substituted with “light intrusion.”
- Regarding page 5 of the write-up, titled “Land Use Code (LUC) Committee. The definition of “general support” in the sentence that stated: “The LUC Committee discussed the proposed amendments at several of their meetings and are in general support.” Following a discussion, staff agreed in the future, the term would be removed.
- The term “trespass light” should be defined. Comment was made there was no definition in the Land Use Code and the definition should be reviewed.
- Regarding the shared parking mitigation plans, question was asked if there was a mechanism to be able to track all the types of plans on a site-by-site basis, so the same parking space was not being shared by three or four businesses at the same time. Suggestion was made that the number of shared parking plans per site need to be reviewed.

It was moved by Commissioner Sayler-Brown, duly seconded, and carried by a voice vote of 10 to 0 (Commissioner Michal absent), to forward the portion of the Infill Improvement Land Use Code Text Amendment – Reductions in the Required Number of Motor Vehicle Parking Spaces, with stated modifications, to the Mayor and Council with a recommendation for approval.

4. LAND USE CODE TEXT AMENDMENT – URBAN OVERLAY DISTRICT

Jim Mazzocco, Planning and Development Services Department, Planning Administrator, gave the presentation on the Urban Overlay District (UOD). He said the concept was that the Mayor and Council could initiate a rezoning and create an overlay with the purpose of encouraging transit and pedestrian oriented development.

Mr. Mazzocco said, during the May 5, 2010 Planning Commission meeting, the Commissioners requested that staff revisit three areas of the ordinance.

Mr. Mazzocco advised that a concern was raised regarding the language in Section 2.8.13.3.A. (Establishment). He said the language was ambiguous because it stated that the Mayor and Council “may” adopt a rezoning ordinance rather than “shall” adopt a rezoning ordinance. The intent of the drafters was to reflect the fact the Mayor and Council always had the discretion to adopt, or not adopt a zoning ordinance. Staff drafted a version that clarified the concern that was assumed in the previous version.

Mr. Mazzocco said the second issue was in Section 2.8.13.3.C. The change was in the zone designation for mapping. He explained this change was initiated by staff to differentiate each overlay district and to avoid confusion. He said staff recommended that the ‘U’ prefix would be followed by a sequential number to distinguish overlay districts.

Mr. Mazzocco stated the third issue clarified the phrasing for modified Urban Overlay District development documents.

Discussion, questions, and comments followed.

Commissioner Eddy asked if this would be driven more by Mayor and Council’s insight as far as where they would want to see an overlay district as opposed to a collective group of private property owners.

Mr. Mazzocco explained it would be Mayor and Council driven, but obviously, they would listen to stakeholders. He said it would be more community based rather than property owner based.

Commissioner Saylor-Brown said all his comments were on the wording and the purpose. He questioned the word use “appropriate” and “southwest” in Section 2.8.13.1.B. He said he did not want to imply any type of design. He also disagreed with the term “Safe urban neighborhoods” in Sections 2.8.13.1.C. and 2.8.13.1.D. He said he would like to see something more positive and offered a suggestion to the phrasing. Mr. Mazzocco offered a change in the wording to encourage both historic and contemporary design.

Commissioner Rex expressed her concern with Section 2.8.13.1.E. and commented that the statement was a double negative. She said that the purpose of the Urban Overlay District was to encourage transitions that were beneficial to both the new and existing developments.

It was moved by Commissioner Sayler-Brown, duly seconded, and carried by a voice vote of 10 to 0 (Commissioner Michal absent), to forward the portion of the Infill Improvement Land Use Code Text Amendment – Urban Overlay District, with modifications, to the Mayor and Council with a recommendation for approval.

5. LAND USE CODE TEXT AMENDMENT – DOWNTOWN AREA INFILL INCENTIVE DISTRICT.

Adam Smith, Planning and Development Services Department, Principal Planner, gave the presentation on the Downtown Area Infill Incentive District and explained this amendment consisted of an optional overlay that allowed for a modification of certain development regulations, including, but not limited to, building height, perimeter yard setbacks, and minimum required number of parking spaces. He said it was established to encourage sustainable infill development and address barriers in infill development.

Mr. Smith explained on March 9, 2010, the Mayor and Council directed staff to analyze the concept of a Downtown Core District as outlined in the Beeker/Campbell March 3, 2010 letter to the Mayor and Council and return to them in forty-five days with a recommendation. He explained on April 27, 2010, the Mayor and Council directed staff to amend the IID to incorporate the Downtown Core district.

Mr. Smith said the amendments being proposed fell into five categories, which were to:

- Divide the current Infill Incentive District (IID) into the Downtown Core and greater incentive sub-districts.
- Establish Downtown Core sub-district requirements, exceptions, and review approval procedures.
- Apply the current modification of development regulations (MDR) provisions to the greater Infill Incentive District sub-district only and address issues with the MDR provisions.
- Clarify the streetscape design criteria.
- Revise the development transition criteria to include mitigation of service areas and parking facilities.

Mr. Smith gave a description of the Downtown Area Infill Incentive District, some analysis, and boundaries that were in the proposed text amendment. He said it was staff's recommendation that initial feedback be gathered from the Planning Commission at that evening's meeting and continue the Study Session on July 21, 2010. At the July meeting, staff would recommend scheduling the item for a public hearing in August.

Discussion, questions, and comments followed.

Commissioner Williams asked if a traffic impact analysis would be a requirement for the development and would the developer be required to mitigate that impact.

Mr. Smith explained this amendment would not waive the traffic impact requirement.

Commissioner Saylor-Brown recommended, when talking about architectural guidelines, that staff talk to various architects to get support and wording for the document, so it would make sense to architects. He followed by giving some examples.

Mr. Smith advised there were some architects on the subcommittee and the Pedestrian Orientation Standards went through extensive discussion at one of the meetings and no proposed changes were recommended at that time. He said the purpose was to create a pedestrian oriented façade so there would not be a flat plane.

Mr. Mazzocco commented that the draft was transferred from the Rio Nuevo draft and included much of the language used in that draft.

Commissioner Eddy asked about parking and if a parking garage was included.

Mr. Smith said the particular parking provision applied to the greater Infill Incentive District. He said he was unaware if Parkwise had plans to put a parking garage outside of the downtown core area.

Commissioner Rex commented that she liked the way the first part of the four phases was broken down in the initial letter of the Urban Overlay proposal from Jim Campbell and Ruth Beeker. She said her question referred to the mechanics of the Urban Overlay section, under the architecture guidelines bullet, and the statement that a single plane of facade shall be no longer than fifty-feet without architectural detail. She said in historical context, there were courtyard models of urban spaces within the desert southwest where the front door entrance-way was concealed and not visible from the street. She said she did not want to exclude those models from this amendment.

Mr. Smith said they would reexamine that language and try to reword the amendment to accommodate that concern.

Commissioner Rex also referenced Attachment C, page 4, Item C. Exceptions. “The following criteria may be modified in excess of twenty-five percent to the extent specified herein.” She said she had trouble trying to fit it within the entire section and bring it up to the current code language. She asked if this needed to be in the draft. Discussion followed.

Commissioner Rex also commented on Attachment C, page 4, Item C.3., regarding the statement: “Parking may be reduced up to twenty-five percent as” She asked, twenty-five percent of what baseline was this being reduced from. She suggested that statement would need some clarity. Discussion followed.

Commissioner Rex also mentioned other concerns on:

- The Landscaping and Screening portion of the draft
- The downtown core thirty-day administrative review and approval procedure
- Pedestrian Access: What would be the process and how would pedestrian access requirements be waived.
- Page 8, Item 8.1.e. Her concern was with the work usage of “shall.”
- Page 8, Item 8.1.f. Was landscaping an allowable screening. It was not listed or specifically excluded.
- Page 8, Item 8.1.g. The item needed to be reworded to allow for additional creatively because it was too restrictive.
- Page 8, Item 8.1.i. She said drive-through services were contrary to the idea of getting downtown to be pedestrian oriented.
- Page 10, Item B.1.a. “Compliance with the requirements of this section is required where the side or rear of a developing site abuts an affected residential property.” She asked why not the front and why was this being limited to side and rear.
- Page 11, Item 1.a. “Upper stories shall be set back within a 30 foot area from the affected residential property line.” She said it was prescriptive and there were other ways of mitigating that transition.
- Page 11, Item 1.d. The word “practicable” should be taken out, because the developing site’s buildings should be oriented to reduce views.
- Page 12, Item 2. “Mitigation of Service Areas.” She suggested including odors and vibration as an intrusion.
- Page 12, Item 3. “Mitigation of Parking Facilities and other Areas.” Regarding the sentence: “Where there is a finding that the vegetative screen will be opaque, a masonry wall may not be required.” She said in that particular case, she did not know if that was restrictive enough. Although it would be opaque now, it may not be once they stop watering it.
- Page 12, Item C. Utilities. She asked how does one include information on the layout and demonstrate availability.

Chair Lavaty concurred with Commissioner Rex regarding the inclusion of a best standards program. His concern was that the language used was lifted largely from the *Rio Nuevo Plan*. He said it was too restrictive and written too negatively to encourage the kind of creativity that they were looking for in this district.

Discussion followed on the concerns.

6. MANZO NEIGHBORHOOD PLAN AMENDMENT PA-10-02 NORTHEAST CORNER SILVERBELL ROAD AND ST. MARY’S ROAD

John Beall, Planning and Development Services Department, Principal Planner, gave the presentation on the proposed amendment for the *Manzo Neighborhood Plan*. He said the applicant was Evergreen Devco, Inc. on behalf of the property owner, Carondelet Health Network. The request was to amend the *Manzo Neighborhood Plan*

on a 3.77 acre site at the northeast corner of St. Mary's Road and Silverbell Road from Residential designation to Neighborhood Commercial/Office/Low to Medium Density Residential designation. He said the site was currently vacant and zoned R-2 and the property owner was seeking a rezoning of the site from Residential (R-2) to Commercial (C-1). Mr. Beall described the location, existing zoning, and current land uses of the site.

Mr. Beall explained that the proposed development for the plan amendment site would consist of a fifteen thousand square-foot pharmacy with a drive-through, an eight thousand square-foot retail building, and an associated parking lot with an increased amount of landscaping, which was mentioned by the neighborhood association.

Mr. Beall explained the *Manzo Neighborhood Plan*, the *Santa Cruz Area Plan*, and the City's *General Plan* provided the policy direction. A complete policy listing was provided in the draft as Attachment D.

Mr. Beall said it was staff's recommendation that the Planning Commission set this item for public hearing on July 21, 2010. He announced the applicant also had a presentation.

Keri Silvyn said she was a partner with Lewis and Roca, and represented Evergreen Devco, Inc. and Carondelet Health Network. She mentioned there were additional members in the audience that were present to assist with questions the Commissioners would have. She thanked the Planning and Development Services Department staff for assisting them the plan amendment and the procedure of moving forward with the application requirements.

Ms. Silvyn said this proposal was considered to be a simple request from the standpoint that no verbiage needed to be changed in the *Manzo Neighborhood Plan* because it was a map and land use change. She said there was language outlined in the staff report that supported the change. She explained the Carondelet Network owned the property since 1901, and was vacant until a year ago when a temporary parking area was approved by the neighborhood. She said the Carondelet Network had a great relationship with the neighborhood and was also working with Evergreen Devco, Inc. on this plan. Early in the term, they met with the Ward 1 Office and discussed the plans. Ms. Silvyn said the Ward 1 office suggested that they meet with the neighborhoods, which they did several times, and several issues and concerns were discussed. She mentioned one of the neighborhood's concerns and suggestion was that during the rezoning, additional landscape would be considered.

Chair Lavaty asked if there were questions for the applicant.

Commissioner Saylor-Brown said he liked the idea of creating a commercial site in the proposed area, but he had some concerns with the site plan. He asked if the Commissioners could provide input with the site plan when doing a plan amendment.

Mr. Beall said site plans issues would be considered during the rezoning process.

Commissioner Maher said he supported the project. He asked if the proposed Walgreens was going to be open twenty-four hours a day.

Ms. Silvyn answered the Walgreens would not be open twenty-four hours a day, but the facility at St. Mary's Hospital had a twenty-four hour pharmacy. She added the proposed Walgreens would be replacing the presently opened Walgreens located across the street, and that location would close once the new Walgreens opened.

Other questions and comments followed.

- A question was asked if the proposed Walgreens would be applying for a liquor license. The answer was that Walgreens would be applying for a liquor license like many of the other Walgreens had.
- Suggestion was made for the site plan to include a pedestrian link between the neighborhood and the property.
- There was confusion in the use mentioned in the write-up. It showed the use to be neighborhood, commercial, and office, but the plan showed retail. The answer was that the use for the eight thousand square-foot building had not been established and there could be retail in the building.
- Question was asked if there was a difference between a Neighborhood Commercial Zone and a Commercial (C-1) Zone and, was there a difference in a liquor license between the both zones as well.
- Request was made to see the definition of the planning policy for a neighborhood commercial office and low-medium density residential use.

It was moved by Commissioner Rex, duly seconded, and carried by a voice vote of 10 to 0 (Commissioner Michal absent), to set the *Manzo Neighborhood Plan* Amendment for public hearing on the July 21, 2010 Planning Commission meeting and include the answers to the questions asked by the Planning Commissioners.

7. ZONING ENFORCEMENT

Ernie Duarte, Planning and Development Services Department Director, introduced Andrea Ibanez, Housing and Community Development Department, Deputy Director, and Teresa Williams, Housing and Community Development Department, Code Enforcement Administrator, who would be making the presentation on Zoning Enforcement. He said they would be presenting an update on procedures, policies, and responsibilities handled by their department regarding a variety of code enforcement items and not just related to the *Land Use Code*.

Ms. Williams said the Housing and Community Development Department was responsible for enforcing a variety codes. She said the main code that they enforced was the Neighborhood Preservation Ordinance. She explained their department handled property maintenance violations, minimum housing violations, sign code violations, and *Land Use Code* violations. Approximately ten-percent of their violations were *Land Use Code* violations and the majority of those complaints were residential related. Storage

violations, illegal use of a residential property, and residential building without site plan approval were some examples of typical violations they addressed. She explained they also enforced and investigated commercial complaints. She said, for example, they would investigate someone who was expanding a business or building with an outside patio who did not have an expanded use for their business.

Ms. Williams said they worked closely with Development Services and were complaint driven. Most of their complaints came from the public and sometimes they would get referrals from the Fire Department, Development Services, or other City departments.

Ms. Williams added that the Housing and Community Development Department sent out letters to various neighborhood associations to offer a presentation or an overview, so citizens would be aware of what type of responsibilities their department was responsible for. She said they have completed over twenty presentations in the last couple of months and informed the public that they could contact them if they had a concern that the Housing and Community Development Department could resolve. She said the majority of concerns were neighborhood related, such as, junk motor vehicles, tall weeds, trash, abandoned and vacant houses.

Ms. Ibanez said she understood that parking enforcement was an interest of the Commissioners, however, noise complaints were handled by the Tucson Police Department and parking enforcement was handled by the Tucson Police Department and ParkWise. She said the volume of code enforcement issues and complaints handled by the Housing and Community Development Department consisted of weeds and junked motor vehicles.

Mr. Duarte said the Tucson Police Department would sometimes ask Development Services Department for assistance with construction noise complaints where construction was taking place beyond the hours allowed in the neighborhood under the Noise Ordinance.

Other discussion and questions were discussed regarding:

- The number of enforcement staff that the Housing and Community Development Department had. It was answered, there were twenty City Inspectors
- How the notice of violations were enforced.
- When a commercial tenant was in violation, would the landlord also be notified. The answer was that the landlord would receive a courtesy notification.
- Did the inspectors have a consistent workflow. The answer was that it fluctuated and the majority of the investigations related to residential and property maintenance.
- What type of parking violations were handled by the Housing and Community Development Department. The answer was that they would address and handle questions regarding who could park on which

property, and the correct measurement of re-striping of a property, or reduced parking complaints.

- How feedback was tracked and who would do the follow-up.

8. MAYOR AND COUNCIL UPDATE

Ernie Duarte, Planning and Development Services Department Director, announced there was nothing to report.

9. OPEN MEETING LAW DISCUSSION

Chair Lavaty announced the Commissioners requested this item be placed on the agenda.

Commissioner Podolsky said he asked what he thought was a specific question at the last meeting with the representatives of the Attorney's Office and the Clerk's Office. He asked if it was permissible for a Commissioner to present an issue, due to the in-depth knowledge of the particular project or issue at hand. He said the response was shocking to him. The response was, after the Commissioner did his presentation, he could turn around, take part in the discussion and participate in the vote. He said he was not the only Commissioner shocked by that response, particularly, when the procedure manual that every Commissioner was given, said that scenario was considered a conflict of interest. He said he was not sure if it was completely understood by the two presenters.

Commissioner Podolsky also asked, for example, if a Commissioner was in a coffee shop and others walked in, could a specific agenda item be discussed or was that considered to be a violation of the open meeting law, even if no votes would be taken and they were just holding a general discussion. He said, it seemed if there was a staff member present it might be permissible because additional information was being obtained from staff. He said there was a bunch of fuzzy lines.

Commissioner Podolsky gave another example. He asked if a Commissioner was in the same coffee shop, and the applicant would walk in, and by facial recognition would begin to talk to the Commissioner and ask questions about his upcoming case. Would the Commissioner turn to the applicant and say he could not answer or discuss those issues. He said those were some of the concerns he had.

Tom McMahon, City Attorney's Office, said he had a chance to talk to Commissioner Podolsky. He explained when the question was presented to Dennis McLaughlin, City Attorney's Office, Principal Assistant City Attorney and Deborah Rainone, City Clerk's Office, Chief Deputy City Clerk, they both understood the question to be if a Commissioner could present an issue. The question was ambiguous and unfortunately, it wasn't made clear at the time. What should have been done at the time was to ask Mr. Podolsky for a hypothetical example. The answer that Mr. McLaughlin and Ms. Rainone gave was based on the idea if a Commissioner would like to add something to the discussion from the dais as a member of the public as opposed to the Commission, and based on the knowledge each Commissioner had, could that be done. He was not considering the question to mean, could a Commissioner represent an

applicant, serving as an architect or consultant on a project, leave the dais, represent that case, then return, sit down, deliberate, and vote. The answer to that scenario was absolutely not and that was Commissioners Podolsky's intuition and he was right.

Mr. McMahon added that the rules of the Planning Commission provided a member to follow certain, specific procedures if they felt that there may be a conflict. Those procedures were very specific.

- Refrain from participating in the meeting. This meant that the Commissioner must publicly indicate the fact that a conflict was present, step down and actually leave the room until all deliberation and voting was concluded. The Commissioner must not take part in any deliberation or voting on that issue.
- A conflict of interest were circumstances in which one receives or appears to receive a proprietary benefit, a pecuniary benefit that would be received other than the general public as a direct or indirect result of the activities of the Commission.

Mr. McMahon brought up the example that Mr. Podolsky mentioned regarding discussing an issue with an applicant. The Open Meeting Law stated there should not be private discussion among the Commissioners, which should occur in a public forum where the public could be aware of the communications.

Mr. McMahon brought up the other hypothetical example raised by Mr. Podolsky regarding the coffee shop and if a couple of Commissioners began to talk about an agenda item. He said it was very dangerous for Commissioners to talk about an agenda item outside of a meeting. Although it would be very innocent and there would be less than a quorum, if the conversation would spread to the other Commissioners and a quorum of Commissioners have entered into the conversation in one way or another, it would now be considered a quorum and a violation of the Open Meeting Law. He said the recommendation would be for the Commissioners never to discuss matters which may come before them as a business item for the Commission. If the Commissioners should have questions or want discussion of matters, everything should go through staff.

Mr. McMahon said Mr. McLaughlin or the Clerk's Office would be happy to answer any questions regarding the Open Meeting Law and questions could be submitted to them.

Commissioner Podolsky asked the definition of what was considered electronic communication.

Mr. McMahon said he would get back to the Commission on that answer.

Ms. McBride-Olson asked another question by giving a hypothetical example. She asked if it was considered a conflict of interest for a Commissioner to take part of a neighborhood association that was taking a particular stance on a planning issue.

Mr. McMahon said he would also get back to the Commission on that answer.

Commissioner Podolsky asked if an applicant approaches a Commissioner outside of the Planning Commission meeting and specific questions were asked on a case, should the Commissioner refrain from answering those questions.

Mr. McMahon said a general rule he followed was not based on whether there was a conflict, but whether there could be an appearance of impropriety. The safest thing to do is avoid the appearance of impropriety. However, the Open Meeting Law did not prevent a Commissioner from talking to an applicant.

10. OTHER PLANNING COMMISSION ITEMS (future agenda items for discussion or assignments)

11. CALL TO THE AUDIENCE

There were no speakers.

12. ADJOURNMENT – 8:21 p.m.