

PLANNING COMMISSION BIG BOX REVIEW SUBCOMMITTEE MINUTES
Comprehensive Planning Task Force Conference Room
MacArthur Building, 345 East Toole Avenue, 3rd Floor
October 22, 2002

Attendance

- Members:** Rob Tomlinson; Grace Evans; Joyce Joosten; and Thomas Sayler-Brown
- Staff:** Sarah More, James Maurer, and Kathy Buchanan, Comprehensive Planning Task Force; Michael McCrory, City Attorney's Office
- Interested Parties:** Connie Damos; Ila and John Rupley; Frank Bangs; Uwe Fink; Anne Murray; and Bob Samuels

1. **Call to Order:** Mr. Tomlinson, the Subcommittee Chairperson, called the meeting to order at 2:15 p.m.
2. **Minutes for Approval:** Motion by Ms. Evans; seconded by Mr. Sayler-Brown; and carried on voice vote (4:0) to approve the minutes of the October 15, 2002, meeting.
3. **Discussion of Large Retail Establishments Ordinance:**

Because the Subcommittee members were presented with several versions of the draft amendment, Ms. More asked that the members pick one version and use that for their review. Mr. Sayler-Brown stated that Mr. Rupley had done a lot of work on his draft and suggested using one of those drafts. Due to the fact that Mr. Rupley had submitted a version marked "+" and a version marked "-", he suggested working from the "-" version.

Ms. More explained the deadline by which the Subcommittee would need to have its review completed in order to schedule the amendment for the November Planning Commission study session. Mr. Tomlinson suggested that, if it is determined that the amendment is to be reviewed at the December study session instead, it should be sent to the Planning Commission members two weeks in advance of any other items scheduled on that agenda.

Mr. Bangs presented an overview of the major objectives he, Mr. Rupley, and Mr. Sayler-Brown were trying to achieve with their versions of the amendment, which were the following.

- I. **Issues.**
 - Food Sales Limitation
 - Whole Site Applicability
 - Relaxation of Performance Standards
 - Performance Standard Issues

II. Resolution.

- Restrictive "Baseline" Standards
- Describe Process for Relaxation (Zoning Examiner):
 - Protect Both the Neighborhood and Developer Interests
 - Purpose Clause/Decision Criteria
- Whole Site: Yes, with Certain Qualifications
- Food Sales Limit: Out
- Performance Standards: Strengthened/Clarified

Mr. Bangs presented a draft, which he asked the Subcommittee to review initially, because it focused on the "Purpose" statement. He indicated that the last sentence in the introductory paragraph of Sec. 3.5.9.7 had been struck; the "Purpose" statement had been relocated to the front of the draft; and the words "land uses" should be added to Sec. 3.5.9.7.A following, ". . . may negatively impact existing and future residential . . .". He then stepped the Subcommittee through subsections 1-6. It was determined that in A.1 the word "are" in the sentence which reads, "Those impacts are noise, light pollution, and interference with significant views," should be changed to "include." Subsection A.4 was to be reworded to: Enhance the aesthetic quality and reduce the visual impact of a Large Retail Establishment, in terms of its external scale and appearance with consideration of surrounding land uses . . .". Subsection A.6 would be reworded to, "Encourage redevelopment of existing commercial or industrial sites with a Large Retail Establishment as the basis for the modification of these performance criteria." **Ms. Evans moved approval of these amendments; Mr. Saylor-Brown seconded the motion; and the motion carried on voice vote (4:0), thus reading:**

3.5.9.7.A Purpose. The Large Retail Establishment performance criteria recognize that a Large Retail Establishment, because of its physical size and magnitude of activity, may negatively impact existing and future residential land uses and public infrastructure in the vicinity of a Large Retail Establishment. Consequently, the Large Retail Establishment performance criteria are intended to:

1. Prevent or minimize negative impacts of a Large Retail Establishment on existing residential land uses or residentially zoned undeveloped land, which by their proximity to the proposed Large Retail Establishment, are likely to be impacted by it. Those impacts include noise, light pollution, and interference with significant views.
2. Prevent or minimize negative impacts of a Large Retail Establishment on public infrastructure in the vicinity of the proposed Large Retail Establishment, including streets, pedestrian ways, transit, and recreation facilities.
3. Enhance the accessibility of a Large Retail Establishment for pedestrians and transit users.
4. Enhance the aesthetic quality and reduce the visual impact of a Large Retail Establishment, in terms of its external scale and appearance with consideration of surrounding land uses as viewed from public streets and

existing residential uses or residentially zoned undeveloped land in the vicinity of the Large Retail Establishment, through architectural design, landscaping, and site amenities.

5. Encourage Large Retail Establishment applicants to explore alternative design and operational solutions to the mitigation of Large Retail Establishment impacts as the basis for the modification of these performance criteria.
6. Encourage redevelopment of existing commercial or industrial sites with a Large Retail Establishment as the basis for the modification of these performance criteria.

Discussion continued concerning new language under the introductory paragraph of Sec. 3.5.9.7.C in Mr. Bangs' draft, which would replace the language previously approved by the Subcommittee at the October 8, 2002, meeting. After discussion concerning the new underscored language following this paragraph, the subsequent language was agreed upon.

3.5.9.7.D Large Retail Establishments – Type V Administrative Special Exception Land Use. A Large Retail Establishment is permitted as a Special Exception Land Use. The decision to approve a Large Retail Establishment as a Special Exception Land Use is made by the Zoning Examiner in accordance with the Type V Administrative Procedure, *Land Use Code (LUC)*, Sec. 5.4.3.5, subject to the following specific performance criteria.

A Large Retail Establishment proposal on a specific site may require more or less stringent criteria to achieve the purpose of the performance criteria. The Zoning Examiner may approve the modification of alternative means of substantially achieving the purpose of these performance criteria based on evidence in the record.

Mr. Sayler-Brown moved that this language be approved; Ms. Evans seconded the motion; and the motion carried on voice vote (4:0).

Discussion then moved to Mr. Rupley's "-" draft. Mr. Rupley stated that Subsection 3 on page 15 of that draft would be deleted based on the above. Discussion began on page 4 with 2., Performance Criteria. It was agreed to add subsection .d as follows:

2. Performance Criteria.
 - a. *Site Design and Relationship to Surrounding Community.* * * *
 1. *Site Characteristics.* * * *
 - d. All uses not permitted by Sec. 3.5.9.7.B or .C.

It was also agreed to delete the last sentence under *Site Characteristics* and relocate it to another area of the draft at a future time.

Ms. Joosten moved approval of this addition; Ms. Evans seconded the motion; and the motion carried on voice vote (4:0).

Discussion moved to Subsection .2, *Vehicular Access*, with there being apparent consensus to revise the language which had been approved at the September 12, 2002, meeting that included "should" to "shall."

The Subcommittee next moved to a discussion of the matrix on page 5. Mr. McCrory pointed out two concerns he had with the matrix: (1) the legal aspects of applying setbacks to buildings on sites where Large Retail Establishments are located which are different from setbacks on those same buildings when located on non-Large Retail Establishment sites and (2) the ability of a developer to split off pads for individual sale to circumvent regulations. A discussion ensued on the definition of "site." After a lengthy discussion concerning the matrix, with staff indicating it did not support use of the matrix, the consensus of the Subcommittee members was to use the matrix prepared by Mr. Rupley, which will apply to all structures on which a Large Retail Establishment is located. Mr. Saylor-Brown asked that the phrase "existing or planned" in the matrix be replaced with language which appears throughout the remainder of the draft.

Language adopted on September 12 concerning the "exceptions" to setbacks was reworded as follows in Mr. Rupley's draft and approved by the Subcommittee, as follows:

Exception. A delivery or loading space may ~~be located no~~ extend up to fifty (50) feet closer ~~than two hundred fifty (250) feet from to~~ residentially zoned or residentially developed property, other than residentially zoned property that is dedicated right-of-way, provided that a ten (10) foot high masonry sound attenuating wall is located ~~between the delivery or within fifty (50) feet of the structure and shields the truck circulation path and~~ loading space ~~and from~~ from the adjacent property.

The following changes from the language approved by the Subcommittee on October 1, 2002, are incorporated into the first paragraph under *Delivery Truck Parking*:

- b. *Delivery Truck Parking.* In all zones, for parking of delivery trucks ~~during nondelivery hours with motors and/or refrigeration/generators running,~~ there shall be a setback of three hundred fifty (350) feet from residentially zoned or residentially developed property, other than residentially zoned property that is dedicated right-of way, unless ~~the main a~~ building shields is located between the truck parking area ~~and from~~ the adjacent property; and the setback shall be not less than two hundred fifty (250) feet.

Ms. Evans moved that page 5 be approved as revised; Ms. Joosten seconded the motion; and the motion carried on voice vote (4:0).

Discussion began on page 6 with the new language appearing as the second paragraph under *Delivery Truck Parking*. After discussion, it was determined this paragraph will read:

Notices shall be conspicuously posted throughout the site specifying the area or areas reserved for delivery truck parking. Only trucks delivering to on-site businesses shall park on the site. Delivery truck parking is allowed overnight. Idling or running generators between 10:00 p.m. and 7:00 a.m. is not allowed.

Discussion moved to the new subsection .c, *Portable Storage Units*, with the word "open" being replaced with "outdoor."

Discussion began on subsections .d, *Outdoor Sales Areas Located Within Parking Lots*, and .e, *Temporary Outdoor Sales Display Uses Associated with a Structure*. Mr. Sayler-Brown suggested that the language, which had been approved by the Subcommittee on October 8, 2002, *Outdoor Sales Displays and Seasonal and Outdoor Temporary Displays Associated With a Large Retail Structure*, be split into these two sections. It was determined that the word "Temporary" would be removed from subsection .e and added to subsection .d and that language would be added to .d as follows.

- d. *Temporary Outdoor Sales Areas Located Within Parking Lots*. In all zones, temporary outdoor seasonal and other outdoor sales areas located within parking lots, which result in a diversion of required parking, shall conform with Sec. 3.3.6.3 and shall be oriented . . .

Staff was asked to correct the use of the noun "setback" to the verb form as needed throughout the draft. Staff was also asked to change references throughout the draft from Planning Director to Development Services Department Director.

Ms. More stated that staff's comments on the chart also apply to subsection .f, *Other Structures and Uses*.

Ms. Evans moved that page 6 be approved as revised above; Mr. Sayler-Brown seconded the motion; and the motion carried on voice vote (4:0).

Discussion moved to page 7, under *Buffers and Landscaping*. It was determined that the word "attenuating" would be added after the word "sound" under subsection .d, *Delivery and Loading Spaces*. Discussion began on subsection .5, *Hours of Operation*. After discussion, the Subcommittee stated that the words "as part of scheduled trash collection" should be added back into subsection .a, *Trash Collection Areas*. **Mr. Sayler-Brown moved that page 7 be approved as revised; Ms. Evans seconded the motion; and the motion carried on voice vote (4:0).**

The Subcommittee moved to page 8 and began a discussion on subsection .c, *Retail Sales*. Mr. Tomlinson stated he could not support including this subsection in the draft; Ms. More stated that staff could not support this either. After discussion, it was determined that subsection .c would not be included; however, language would be added to subsection .d (now .c) which included retail sales, and a section concerning a security management plan would be added under the *Monitoring Operations* section. Subsection .d (.c) was revised to read:

- c. *Outdoor Retail and Public Assembly Uses*. No outdoor uses shall be permitted between 10:00 p.m. and 7:00 a.m.

Next, discussion moved to subsection .a, *Ongoing Committee*, under *Monitoring Operations*. After discussion, the following changes were agreed upon to revise language adopted on October 15, 2002.

- a. *Ongoing Committee.* Immediately after approval of the application or plan, the Development Services Department (DSD) Director shall establish a committee consisting of the owner/operator of the Large Retail Establishment, interested neighbors within three hundred (300) feet of the site, representatives of adjacent neighborhood associations, applicable City Council Ward Office, and other parties as necessary. The purpose of this committee is to monitor ongoing compliance with the conditions of approval of the project on a semiannual basis; and minutes of the meetings shall be provided by the developer/owner to the DSD Director, the neighborhood association(s), and those in attendance. Additional meetings to resolve conflicts or issues will be scheduled as required. The committee shall be informed of any proposed changes to the approved plan. Records of the meetings shall be maintained and made available to the parties concerned.

The Subcommittee suggested adding the words "both indoors and outdoors" to subsection .b, *Posting*, thus reading:

- b. *Posting.* The developer/owner of the property and the owner/operator of the Large Retail Establishment shall conspicuously post, both indoors and outdoors, the phone numbers of the responsible parties to whom adjacent residents can report violations of Sec. 3.5.9.7. The posted notice shall also have the address and phone number of the City office to which violations of approved plans are to be reported. A record of the violation reports shall be kept and distributed monthly to the members of the Ongoing Committee.

In addition, the language concerning a security management plan contained in the Large Bars ordinance will be added as a new subsection .c after *Posting*. **Ms. Evans moved approval of page 8 subject to the above revisions; Ms. Joosten seconded the motion; and the motion carried on voice vote (4:0).**

Discussion moved to page 9 and began with subsection .b, *Connection to Adjacent Residential Neighborhoods*. After discussing the proposed new language, it was determined that this should be deleted from the draft. **Mr. Saylor Brown moved approval of page 9 with the proposed revisions; Ms. Evans seconded the motion; and the motion carried on voice vote (4:0).**

The Subcommittee decided to delay review of pages 10-15 until next Tuesday. It was agreed that staff would put together a draft, which includes not only what was agreed upon at this meeting but also includes the proposed new language that appears on pages 10-15. Providing the Conference Room is available, the Subcommittee agreed to meet at 3:00 next Tuesday.

4. **Next Meeting: The next meeting will be held on Tuesday, October 29, 2002, at 3:00 p.m. in the 3rd Floor Conference Room of the MacArthur Building, 345 East Toole Avenue.**
5. **Adjournment: 6:05 p.m.**