

TOWN COUNCIL SPECIAL MEETING - MONDAY EVENING - FEBRUARY 1, 2010

PRESENT: Marshall, Cordeiro, Parella (arrived at 7:41 o'clock PM), Barboza, and Herreshoff (arrived at 7:11 o'clock PM).

ALSO PRESENT: Andrew M. Teitz, Esq., Asst. Town Solicitor
Diane M. Williamson, Director of Community
Development

The Council met in Special session on Monday evening, February 1, 2010 in the Herreshoff Meeting Room of the Rogers Free Library beginning at 7:03 o'clock PM, Council Chairman Marshall presiding:

Matters Discussed:

Workshop re Ordinance 2010-03 - Phase IV Zoning Revisions

Documents Received:

(Director of Community Development and Principal Planner) re
Summary of Proposed Amendments to Zoning Ordinance (white paper)

Cordeiro/Barboza - Voted unanimously to
continue this matter until the regular
meeting of February 10, 2010.

Prior to the vote taken, Director of Community Development Williamson informed the Council that the purpose of this Special Meeting was to edify its Honorable Body concerning the proposed edits and updates to the Town Code re Zoning.

Director of Community Development Williamson reported that these edits and updates were the result of the workings of the Zoning Revision Advisory Committee as appointed in 2007. She also noted that the amendments presented included "cleanups" (corrections, typographical errors, etc.) and also those changes to bring the code in compliance with the Town Comprehensive Plan.

Director of Community Development Williamson further reported that the Zoning Revision Advisory Committee met often and that all changes, as proposed, were evaluated by the Committee. She further reported that these proposals were set-aside pending the Council's approval of the Comprehensive Plan update which was completed during 2009. She noted that the Council is now here to consider the Zoning Code update Phase IV.

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Director of Community Development Williamson reported that the provided summary "white paper" was prepared by Principal Planner Ed Tanner and that her department is still finding some minor issues with the current code but that she was comfortable that the proposal addresses 99.5% of the needed corrections and updates.

Director of Community Development Williamson further reported that the Planning Board will next receive the proposal for their consideration and that afterwards the Council will again receive the proposal, along with a Planning Board recommendation, in order for the Council to consider the proposal for public hearing and second reading.

Director of Community Development Williamson reviewed the information provided in the summary "white paper" in detail adding information as noted below:

Councilman Cordeiro asked to know the substance of the changes in consideration of Land Development Projects with Director of Community Development Williamson responding that the proposal deletes references to "cluster" and replaces same with Conservation Subdivision provisions. She further noted that "cluster" has become somewhat outmoded and the Conservation Subdivision is more in accordance with contemporary planning standards. Planner Tanner added that the new nomenclature essentially addresses many of the same issues as the previous one.

Planner Tanner reported that the definition section as found in Article I now more clearly defines uses and also that the section was "cleaned-up."

Councilman Barboza asked to know about the provisions concerning wood boilers with Planner Tanner noting that the Town Code addressed the matter of alternative heating units (wood boilers) in Chapter 10, Article V and it was now to be included in the Zoning Code upon the advice of the Town Solicitor.

A discussion ensued regarding those who installed these alternative heating units prior to the code amendment would be allowed to keep them since these were pre-existing.

Planner Tanner also noted that some of the proposed corrections and updates were derived from a list kept in the planning office based upon issues raised at Zoning Board of Review meetings.

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Planner Tanner explained the establishment of a "new" zoning district entitled the "Metacom Mixed Use Zone" and noting that this district is proposed and not yet part of the Town's Zoning Map.

Councilman Herreshoff arrived at this point in the meeting (7:11 o'clock PM).

Planner Tanner further explained that the establishment of the Metacom Mixed Use Zone was recommended in an appendix to the Metacom Avenue Plan.

Director of Community Development Williamson reported that the newly proposed zone allows for mixed use at certain intersections. She also reported that the zone will exist only if and when the Council amends the Town Zoning Map.

Council Chairman Marshall asked to know if this would be an overlay zone with Planner Tanner responding that the Metacom Avenue Plan recommends the application of this zone at major main intersections.

Planner Tanner referred also to page 3 and explained that the zoning revision recommends several new agricultural uses and also defines "domesticated" animals.

Director of Community Development Williamson noted that proposed certain changes concerning affordable housing units within R15 zones will require deed restrictions when former accessory housing units are no longer occupied by family members. She explained that this provision will encourage an increase in affordable housing.

Director of Community Development Williamson also explained that the proposed code amendments provide a "heavier" definition of "specialty school" with Council Chairman Marshall asking if the Zoning Board will be able to allow same via a special use permit. Planner Tanner responded affirmatively; adding that the Zoning Board of Review will have the flexibility to determine if the applicant's proposal is a "good fit."

As an example, Planner Tanner explained that a yacht restoration school would be appropriate within a manufacturing zone and a ballet school would not necessarily be appropriate.

Director of Community Development Williamson referred to page 36 in the text and explained that a long-forgotten provision

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concerning "corporate headquarters prior to 1950" is eliminated in the proposed amendments. Assistant Solicitor Teitz explained that this provision was likely added to Code many years ago in order to accommodate a now-defunct business and that the provision is no longer applicable.

Planner Tanner stated that the amendments allow for the location of a tattoo establishment within a GB zone with Director of Community Development Williamson noting that the present Code considers a tattooist similarly to a sign painter.

Councilman Herreshoff asked to know why the Code lists only certain types of businesses with Assistant Solicitor Teitz responding that the ones listed are typically those which may have been problematic and it is difficult to deny a certain petitioner when the Code is silent on a particular type of business.

Planner Tanner noted that a tattoo business would be allowed in the Metacom Mixed Use zone with Council members, by consensus, agreeing that it should be allowed in a GB zone only.

Planner Tanner also noted that the amendment will restrict the location of storage facilities with Director of Community Development Williamson explaining that these facilities tend not to require many personnel. She further explained that a goal of the Zoning Code is to protect and create jobs within the limited amount of industrial land remaining. It was noted that storage facilities will be allowed within GB zones only.

Director of Community Development Williamson explained that the code amendment will allow for kennels by means of a special use permit in M and GB zones.

Director of Community Development Williamson noted the removal of an obsolete reference to "shopping center with more than two (2) stores."

Director of Community Development Williamson reported that the Zoning Revision Advisory Committee spent considerable time on the topic of marine trades industries "accessory uses" i.e. selling, retrofitting, parts, etc. and that the new ordinance "catches-up" with this topic.

Councilman Cordeiro asked to be advised concerning a reference on page 41 of the text concerning "out-storage of junk" with Director of Community Development Williamson reporting that the

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code does not allow junkyards but that pre-existing businesses can continue.

Councilman Cordeiro asked if pre-existing junkyards may expand with Assistant Solicitor Teitz responding that it doesn't appear to be legally possible to do so under the code.

Director of Community Development Williamson noted that the structure of "junkyards" has changed remarkably since the 1990s and that those who salvage auto parts, etc., operate "reclamation facilities;" these being systemized, orderly, and profitable. She also noted that a bona-fide reclamation facility is allowed in an "M" zone.

Planner Tanner noted that the "extractive" industries are now better defined; these being gravel yards which grind rocks, sand and gravel.

Director of Community Development Williamson noted that boat yard, marina, and yacht club are better defined in the proposed amendment.

Councilwoman Parella arrived at this point in the meeting (7:41 o'clock PM).

Director of Community Development Williamson explained some new provisions to allow for temporary "steel relocate-able" structures, noting that "Pods" used by persons moving, etc., will be allowed under these new provisions. She also explained that the new provisions set time limits for the use of these structures.

Councilman Cordeiro stated that the Town should remove any of these structures that are installed illegally with Planner Tanner responding that Code Enforcement Coordinator Jack Evans and he often "patrol" in order to investigate reports of illegal installations of temporary steel structures and often arrange for these to be removed.

Director of Community Development Williamson noted that the Pods "come and go" and should be regulated by prohibiting same in the absence of a special use permit.

Councilwoman Parella suggested that the provision might allow for the use of a Pod for sixty (60) days and require a special use permit for any time beyond the sixty (60) days.

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Planner Tanner stated that a permit might be issued to allow for sixty (60) days use and that the structure must adhere to certain acceptable standards. He also suggested that the applicant must make arrangements within the sixty (60) day window if a longer duration is required.

Councilman Herreshoff noted that the Town should take precautions in order to prevent the Pods from "multiplying."

Planner Tanner noted that steel structures are sometimes screened from public view and are difficult to notice. Some, however, are more obvious.

Assistant Solicitor Teitz reported that the language presented concerning "wind energy conversion systems" Section 28-150 (j) was prepared with the assistance of Paul Sanromà and Merritt Meyer who bases same upon models from other communities.

Councilman Herreshoff asked to know where these devices (wind turbines) would be disallowed with Planner Tanner responding that these would be generally disallowed in smaller zones and within the historic district.

Councilman Herreshoff suggested that the Town should forbid the installation of these turbines in the harbor; noting that the City of Copenhagen allowed their installation and is now regretting their decision.

Assistant Solicitor Teitz stated that it may be possible to prohibit wind turbines in the harbor as part of the harbor management plan with Councilman Herreshoff suggesting further that the turbines should be outlawed in all of Bristol's waters.

Assistant Solicitor Teitz noted that this matter is not a zoning ordinance topic but perhaps rather rests with the harbor regulations. He agreed to pursue this matter and keep the Council informed regarding its status.

Director of Community Development Williamson reported that the amendments proposed to Article V were a "clean-up" and also clarifies deck setbacks.

A discussion ensued regarding temporary steel structures with Councilman Herreshoff noting that those abutting a landfill may not be objectionable but rather those abutting a residential section of High Street would likely be objectionable.

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Assistant Solicitor Teitz noted that those areas similar to landfills may be at some point redeveloped and the previously considered non-objectionable temporary building will become objectionable.

Councilman Herreshoff suggested that any permits for temporary steel structures should be renewed after a two (2) year period with Planner Tanner agreeing to add that provision to the amendments.

Councilwoman Parella stated that such a provision may create an excessive amount of "red tape" with Planner Tanner noting that he is of the understanding that the Council would prefer no temporary steel structures at all but will tolerate some under special circumstances. He agreed to return to the Council with new amendment language for its consideration.

Director of Community Development Williamson noted that wind turbines will require a special use permit with Councilman Herreshoff asking if there are applicable design standards for same.

Planner Tanner stated that the standards include setbacks, etc. with Councilwoman Parella noting that the large wind turbine in Portsmouth is in a residential area.

Assistant Solicitor Teitz explained that some installations, similar to the consideration of wood boilers, are not appropriate for densely populated areas. He further explained that those with small lots may require a dimensional variance from the Zoning Board of Review.

Councilman Herreshoff agreed that the presence of a wind turbine may be offensive to some neighbors and that controls, guarding against "cheap and poor design" and also the location of same, are needed.

Council Chairman Marshall asked to know if the lot size specified at five (5) acres was arbitrary with Assistant Solicitor Teitz responding that this is a common size limit based upon other locations.

Planner Tanner explained that the "white paper" should have included a notation on page 6 explaining Section 28-150 (k) which defines special use permit standards for marine trade industries (a new section). He noted that this notation was

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inadvertently omitted and referenced the section on page 69 of the full text version.

Assistant Solicitor Teitz noted that in some instances outdoor storage of boats, etc., may be necessary for business and the new revisions provides for same. He further noted that the regulations require that the applicant must provide a landscape plan in order to mitigate appearance problems.

Director of Community Development Williamson referred to the "white paper" page 6 concerning Section 28-151 Accessory Family Dwellings. She noted that this section was also "cleaned-up" per the requirement of state law and also to allow for conversion to affordable housing.

Planner Tanner noted Article VII and explained that this new provision considers non-conforming single lots of record. Councilman Barboza asked if this provision might limit overly large houses on small lots with Assistant Solicitor Teitz responding that the Zoning Board can put more restrictions and impose size requirements.

Councilman Herreshoff stated that he would prefer if the provision was not too restrictive.

Director of Community Development Williamson noted the new provisions regarding off-street parking. She further noted that the provisions add dimensions for parallel parking and revised others; in an attempt to make these easier and institute a common sense approach for large industrial buildings containing few employees, particularly in the boat building industries where large buildings are needed to house the boats under construction and few employees (with automobiles) occupy same.

Director of Community Development Williamson reported that Item 9 on the "white paper" considers numerous "clean-ups" to Article XI Land Development Projects and Special Zones.

Assistant Solicitor Teitz reviewed the provisions of Section 28-283, explaining that the new proposal requires that the open space should be identified first instead of the layout of streets which was the previous first-step. He also explained that the incentive to do so results in a density bonus of no more than 30%; a bonus also for affordable unit development; and for preservation of historic properties.

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Assistant Solicitor Teitz added that the new provisions allow for "walking neighborhoods" allowing some mixed use subject to the approval of the Planning Board; these being "service" businesses.

Councilman Cordeiro noted the "dedication of easements" as provided on page 118 of the full text and indicated that he was pleased to see these provisions added to the code.

Director of Community Development Williamson noted the affordable housing provisions under the "Inclusionary Zoning" section. Councilwoman Parella expressed concern that the provision "singles out" the East Bay Community Development Corporation (EBCDC).

Director of Community Development Williamson noted that this singling-out of one entity was inadvisable and agreed to remove the reference from the text.

Council Chairman Marshall asked to know who will manage and secure the mentioned "trust fund" with Assistant Solicitor Teitz responding that the management of same will be "visible" and monitored by Rhode Island Housing. Council Chairman Marshall asked to know if there was a state law providing for this issue with Assistant Solicitor Teitz agreeing to provide a copy of same.

Director of Community Development Williamson noted a new provision to the signage section that would allow the Town Administrator to approve the location of business signs to hang over the public sidewalk.

Planner Tanner stated that new provisions would allow for certain temporary signs by businesses four (4) times per year.

Councilman Cordeiro expressed frustration that there are many businesses that install illegal signs and stated that he would approve of a fine in these cases. Planner Tanner agreed the problem is a difficult one and that he and Code Compliance Coordinator Evans commonly remove illegal signs and dispose of same.

A discussion ensued regarding the installation of "rolling billboards" and signs painted on trucks with Assistant Solicitor Teitz informing the Council that rolling billboards are controllable and painted trucks generally are not.

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Council Chairman Marshall "opened the floor" for comments with most in attendance agreeing that the proposed amendments were well formulated.

There being no further business, upon a motion by Councilman Barboza, seconded by Councilwoman Parella and voted unanimously, the Chairman declared this meeting to be adjourned, with thanks to the Rogers Free Library for accommodating same, at 9:10 o'clock PM.

Louis P. Cirillo, CMC
Council Clerk