

MINUTES
MOUNT VERNON PLANNING AND ZONING COMMISSION
MAY 11, 2016

The Mount Vernon Planning and Zoning Commission met May 11, 2016 at Mount Vernon City Hall Council Chambers with the following members present: Truman Jordan, Trude Elliott, Rich Hileman, Richard Peterson, Matthew Nelson and Joan Burge. Absent: Jenna Wischmeyer. Also in attendance, Zoning Administrator, Matt Siders and City Administrator, Chris Nobsch. Meeting was called to order by Chairperson Truman Jordan at 6:32 p.m.

1. Approval of Agenda and March 23, 2016 minutes. These documents stand approved unless otherwise indicated by Commission members. Jordan stated that item #4 will be moved ahead of item #3.
2. Open Forum: each citizen limited to 5 minutes per discussion item.
3. Discussion and possible action to amend the zoning code to allow business and retail uses within Limited Industrial. Jordan said that at the last meeting this topic was discussed (March 23rd) it was not clear that what was being requested was a text amendment to the code by adding permitted uses under Light Industrial. It was pointed out to Jordan that according to the Mount Vernon Code, only the Planning and Zoning Commission or City Council could initiate a text change. Jordan stated that the four things that the commission could do would be to permit retail uses in Light Industrial or allow one or more of the four possible retail uses, allow retail as a Conditional Use permit with very clearly defined criteria that needs to be met or take no further action. City Administrator Nobsch stated that Mr. Moore has two possibilities, one would be to come to Planning and Zoning as he has done tonight and determine if the commission is interested in looking at an amendment to the code section. If Planning and Zoning is not interested, he has the ability to go before City Council and ask them to consider the same. If City Council says yes, they would remand it back to Planning and Zoning for further consideration. He said there was also a third option at this point as City Council has approved the hiring of ECICOG to look at the complete re-writing of the zoning code.

Hileman said that he was adamantly opposed to even entertaining the idea of adding the four retail uses to Limited Industrial zone. He also stated that the City cannot make major fundamental changes in the zoning ordinance

because a building owner has lost a tenant. The purpose of zoning is not to help building owners find tenants. Every building is in the exact same position, no matter what use zone they are in. They would like to get another tenant in as quickly as they can and every building would be better able to do that the more uses their building could be used for. The City cannot do for one person what they wouldn't be able to do for everyone and they couldn't say to everyone that they would change the zoning ordinance in a major fundamental way so that it would be easier for the owner to find tenants. Hileman said this is just not the way that you make decisions about zoning and the City needs to approach questions about major zoning changes with regard to whether it is the right thing to do from a universal perspective. Hileman went on to say that conditional uses are for uses within zoning districts which have unusual site development or operating characteristics that could adversely affect surrounding properties. He does not know how retail could fall into that category in a Limited Industrial zone. Hileman also felt that it was a good idea that the City was going to have its entire zoning ordinances looked at and re-examine the uses that are allowed in each zone.

Nosbisch stated that the legality of the City's zoning code right now is slightly in question. The square footage requirement has been tried and tested and held up in court. The ability to use square footage as far as retail is concerned has been tried in a number of states and upheld. Nosbisch also said that the City needs to further define why certain commercial districts were established versus others and some of the components that would be in a typical zoning ordinance aren't in Mount Vernon's. Peterson disagreed with Nosbisch and said there was sound reasoning behind the zoning ordinance that we have and it is based on the Comprehensive Plan from 1995 and the newest one. Nosbisch stated that there is no basis in the Comprehensive Plan that would hold up in court for why some uses are allowed. He also stated that ECICOG and the Planning Commission did a great job on the Comprehensive Plan but it is still a very broad umbrella that the City needs to take a further look at. Elliott said that she is looking forward to the review of the zoning ordinance to address some of these issues so that the code is more in line with the new Comprehensive Plan.

Hileman made a motion that Planning and Zoning decide for the present not to make a text amendment adding the retail use categories in the zoning ordinance now to Limited Industrial. Motion seconded by Peterson. Nelson said he looks at this from a different perspective. He stated that there are houses right across the road from this property on Hwy 1 and personally he wouldn't want Light Industrial right across the street. He feels it lowers the value of those homes. He stated that one of the positive aspects to any plan

or any development is to have walkability, proximity between retail and residential and also a buffer between residential and industrial. Right now that doesn't exist along Hwy 1 on the north side. Nelson said that adding retail would be positively affecting that street and as an entryway through town and a high traffic area, retail would improve that space.

Elliott asked if zoning districts were up for change with the review that ECICOG will be doing. Nobsisch said technically yes, but may not be a good idea. He said the best thing to do is to make sure that the zoning code has established districts that allow the uses that you want and then look at the specific corridors.

Hileman repeated his motion that Planning and Zoning not add the four retail use categories that we have in our current list of permitted uses to the Limited Industrial zone. All members were in agreement and the motion passed.

Hileman went on to say that he suggested the commission go through the table of uses and ask which of those uses could be in the Limited Industrial zone without adverse effects and what other possible uses could make sense in that zone. Jordan urges everyone to do this for all zones but asked that they have further discussion on this zone at the next meeting. Hileman explained that this agenda item and request was about allowing retail in the Limited Industrial zone and was not limited to Mr. Moore's building and he could also request to re-zone the property if he chose to do so.

4. Discussion of proposed rental ordinance. Peterson explained that the State has a rental ordinance that would cover many of the issues that have been discussed in the past. Hileman said the main issue faced by cities is enforcement. Nelson said that communication is important so that people are aware there is an ordinance. Peterson went on to say that if Mount Vernon proceeds with a rental ordinance, the things that need to be discussed are registration permits, inspections, upkeep of properties and off street parking. A lot of the landlord/tenant issues would be covered under the state code. Hileman said another issue that could be addressed within the zoning ordinance was people being able to rent out a room within their house. Peterson said the reason for this discussion about rental properties was due to the complaints that have been received about them and the fact that the City has no idea how many rental properties there actually are. He feels that one of the jobs of Planning and Zoning is to protect the residents of the City and in a residential neighborhood that means protecting people that own homes in that neighborhood and making sure that those neighborhoods are kept "up to snuff". Nelson felt that this would add

accountability to the property owner and also make them more aware of what the state laws are. City Administrator, Chris Nosbisch, said that City Council will be looking at a social host ordinance in the coming months that will give the police more power and authority when there are problem properties and be able to take more action. The nuisance ordinance can be reviewed to better address the nuisances such as mowing and snow removal. Nosbisch also stated that the reason for why the City addresses the nuisances on a complaint basis to better protect themselves in the event that the issue were to go to court.

There was agreement that a registration and permitting process was needed for rental properties to address the problem areas. The subcommittee will continue discussions and bring back to the commission.

5. Zoning Administrator Report. Siders updated the commission on the Board of Adjustment meeting tonight. There were two items on the agenda. One of the items was a request for a variance for a fence, 8' in height, in the rear property of the Meadowbrook Condo Association. This is adjacent to a property that has horses. Board of Adjustment awarded a variance for this fence. The second item was a request for a variance for a garage 23' in height. Board of Adjustment denied this request.
6. Old Business.
7. New Business.

Meeting adjourned at 8:32 p.m.

Respectfully submitted,
Marsha Dewell
Deputy Clerk