



# CITY OF ATWATER

## PLANNING COMMISSION MINUTES

**March 10, 2010**

CALL TO ORDER: (Regular Session)

*The Planning Commission of the City of Atwater met in regular session this date at 6:00 PM in the Council Chambers, 750 Bellevue Road, Atwater, California; Chairman Miller presiding.*

ROLL CALL:

**Present:** Commissioners Miller, Mooneyham, Werner, Davis, Warchol  
**Absent:** None  
**Staff Present:** Senior Planner Hendrix, Deputy City Attorney Sanchez,  
Recording Secretary Ruiz

COMMENTS FROM THE PUBLIC:

*Notice to the public was read.*

*No one came forward to speak at this time.*

MINUTES:

- a. Regular meeting of February 24, 2010

**MOTION:** *Commissioner Warchol moved to approve the minutes as listed. The motion was seconded by Commissioner Mooneyham and the vote was: Ayes: Miller, Mooneyham, Werner, Davis, Warchol; Noes: None; Absent: None. The motion carried.*

**PUBLIC HEARINGS:**

- a. Zoning Ordinance Text Amendment No. 10-1 (Ord. No. CS 909): Proposing to amend the City of Atwater Zoning Code to include section 17.80 establishing a design review process for discretionary review of development projects that require additional site and design considerations beyond conformance with minimum standards of the zoning code. The purpose of the design review process is to promote orderly and harmonious growth within the City.  
Applicant: City of Atwater

***Deputy City Attorney Sanchez presented staff report.***

***Planning Commissioners had many questions in regards to the process for the design review. The majority of the Commissioner's were against the option that would take away the authority from the Planning Commission of approving future development projects. Commissioner Miller stated that in the past, any person who wanted to appeal a decision by the Planning Commission would appeal to City Council, what would the process now.***

***Commissioner Werner asked what would happen with the people who had obtained a building permit or who are in the process of obtaining one. Commissioner Davis wanted to know what triggered the City to create a design review so suddenly. Commissioner Werner wanted to know what would happen to the people who had already pulled a building permit or was in the process.***

***Deputy City Attorney responded that he understood the concerns the Commissioner's had and this is the reason why we are having this meeting, so that the City Council and City Attorney's can get the input from the Commissioners. He also stated that the ordinance as it reads in the staff report is only a draft and it was not a direction from City Council. Mr. Sanchez stated that the way the ordinance is read at this time; the project would go straight to City Council and there would be no appeal process, the next step for an applicant would be a lawsuit. The second option would be to bring the project to the Planning Commission for a recommendation, Planning Commission makes a recommendation, then it goes to City Council for final approval, the results no appeal and then at that time it goes to lawsuit.***

***The third option that many Cities currently use is that the project goes to the Planning Commission first, Planning Commission decides on the matter and it's done unless appealed. At that time the appeal would go to the City Council, the City Council would decide on the appeal and then if the applicant is still unhappy, they could file a lawsuit but they would have to exhaust of all of their remedies. In regards to the question about the building permits, anyone who has already obtained a building permit is excluded from the design review process. Anyone who is in the process of obtaining a building permit would have to be reviewed and then a determination would be made. In regards to the question of***

**what caused the start of the design review process is because it is a great tool for the City to implement.**

**The Public Hearing was opened for this item.**

**ANDY KROTIK, Atwater, CA, stated that he is a proud resident of the City of Atwater and thanked the Commission for opening the Public Hearing. Mr. Krotik stated that the first thing that stood out when reviewing the ordinance was that the Planning Commission would be stripped from their authority and that the staff report did not state that this was just for a recommendation, it states that the recommendation is to approve. In his opinion this is the most intrusive, restrictive, anti-business ordinance that he has seen in a long time. If this item is going to be taken to City Council he recommends a no vote. He also stated that the reason this issue was brought up was due to an out of town developer that he is working with came to town and bought Claremont Reserve. There were some concerns and appropriately so about what they were going to build. On the 28<sup>th</sup> of January, they had a meeting and attending were Sterling Communities the developer, himself, City staff, Council member Crabb and Rivero and the developer explained to them what he was planning on building.**

**Mr. Krotik was told by the Senior Staff that staff was happy with what they saw and they are happy with what is being built now, except that they do not like size of the homes, because they are a bit smaller. He would also like to request that the Planning Commission continue this item so it can go to the Building Industry Association. Mr. Krotik appreciates that City Staff, Senior Planner Hendrix is keeping him in the loop and he thinks this ordinance is just too invasive. If this ordinance does go into effect in May, the current developer out there who's using local subs like G&G Construction, Tri Phase Electric, B&B Plumbing. This developer is using local sub contractors and if this ordinance does go into effect, they will stop construction immediately affecting the local sub contractors. He also thinks that there should be some consideration to exempt the Home Owners Association, areas.**

**The Public Hearing was closed for this item.**

**MOTION: Commissioner Warchol moved to continue the ordinance to the next Planning Commission meeting of March 24, 2010 in order to bring back to the Commission Options as to the Commission's possible role in the Design Review process, to do more outreach to the building community, and provide additional information regarding application of Design Review on areas with Home Owners' Associations. The motion was seconded by Commissioner Mooneyham and the vote was: Ayes: Miller, Mooneyham, Vanderzyde, Werner, Davis; Noes: None; Absent: None. The motion carried.**

REPORTS:

a. Report on Variances

**Senior Planner presented staff report.**

**Commissioner Warchol asked if the Commission had issued any variance permits recently. Senior Planner responded that the Commission approved one, about two or three years ago.**

COMMISSION / STAFF COMMENTS:

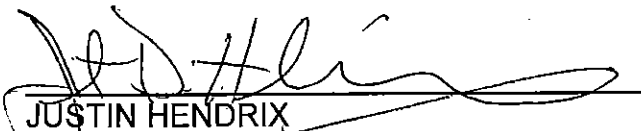
**Commissioner Mooneyham stated that there is an accessory structure on the corner of Grandview Drive and Avenue 1, and it's about 12 inches from the wall. Senior Planner responded that the wall is not the property line at that subdivision, the property line is the back side of sidewalk on Avenue 1. Commissioner Mooneyham then asked about the fire code clearance because in a previous discussion about a patio cover, the Fire Department stated that the fire code requires that there has to be some type of access to the property so they can get a ladder in the there.**

**Commissioner Werner mentioned that when they had that discussion on the patio cover the Fire Chief stated that as long as they can get a ladder in the property it was ok, in this case it can be accessible by a fire truck.**

**Senior Planner Hendrix responded that the property line at this subdivision is the back side of sidewalk at Avenue 1 and the accessory structures ordinance as written goes by property line and as Commissioner Werner mentioned that if the fire department needed to get in they could do so over the wall. Senior Planner Hendrix also mentioned that the structure did go through the building permit process and received a permit.**

ADJOURNMENT:

**The meeting adjourned at 7:04 PM**

  
JUSTIN HENDRIX  
PLANNING COMMISSION SECRETARY  
CITY OF ATWATER

By Stephanie Ruiz