Public Outreach – Municipal Code Changes Regarding the Appeals Process
General Community Meeting – July 22, 2019
(Advertised in weekly Development Review Newsletter, posted on City's Facebook page, posted on the Development Review and City Clerk Website Pages, Press Release, Nextdoor Post)

City Staff Present: Delynn Coldiron, City Clerk
Sylvia Tatman-Burruss, Development Review Liaison

Participants: Eight Attendees

Meeting Specifics: Monday, July 22nd, 6:00 P.M., Colorado River Room, 222 Laporte Avenue.

Discussion:

Definitions:

- Not clear why anyone should be excluded from the appeal process. No one should be excluded from being a party-in-interest. Everyone should be able to appeal decisions.

- Question about why a member of the Planning and Zoning Board was not allowed to speak at an appeal hearing? This should be addressed in the municipal code.
    - The board member was part of the decision-making body that made the decision that was appealed. Comments made by the board member as part of the hearing to the Planning & Zoning board are part of the record that has gone to Council.

- Question about whether individuals can add their names to existing appeals.

Ex Parte Communication:

- Having this "gag order" is an issue; the Mayor should not keep people from offering public comment on land use issues because they might be appealed.

General:

- Concern that citizens are not notified of an appeal but are still interested in participating in the process. Is important for others who are interested in the process to be notified in order for them to be able to participate.

- Question about why these changes being brought forward at this time?
    - Changes were initiated by staff to clarify procedures based on questions that have been received by those involved in the appeals process, as well as staff. Some of the changes also document current practices that are occurring. Concerns about due dates for materials and not having enough time to pull things together has been expressed to staff on multiple occasions.

    - Think there should be more clarity about the objectives of these changes. Be clear about the purpose or objective to allow the public to see whether these are successful. There also needs to be clearer definitions on things like what is considered ex parte communication.

- Question about how these meetings were publicized.
    - This meeting was specifically advertised in as many media avenues as possible, including through a formal press release, the Development Review newsletter, on the Nextdoor platform, on the City's Facebook page, and on City webpages frequented by various City customers.

- The City Council cannot modify resolutions with a resolution. They are not complying with the City's charter. They must enact any change with an ordinance. The problem statements for these changes have not been clearly defined. The lack of information for the public doesn't just start with the appeals process. The planning and development review process should also change. Need better planning outcomes, then would have many less appeals. Code changes need to be made there.
    - Need to clarify the Land Use Code and have a more collaborative process.

- Appeals process related to the Sunshine House was not proper. The issue was not in the Land Use Code, it was really about a policy from a different department. The Water Board decision was not part of publicly available information. The daycare floodplain variance was not publicized, and, therefore, not appealable by the deadline.
    - During the Bucking Horse Childcare Center appeal, there was controversy over the comments not having been submitted in a timely manner. Is this a written procedure or is this codified in the Land Use Code?
        - There is nothing codified in the Land Use Code related to this. The closest thing comes under Section 2.2.7(B)(1) which talks about a person appearing at the public hearing and submitting evidence. It is routine practice that community input received prior to a hearing be included in the information that is provided to the hearing body.

- Planning and Zoning Board work sessions should be scheduled at night like hearings to allow more people to attend.

- Question about whether there is any training on appeals for Councilmembers before appeals occur.
    - The City Attorney provides guidance and training on this.

<u>Hearing Procedure</u>:

- Question about the change related to explanation of the appeal.
    - This clarifies that City staff will provide the explanation.

New Evidence:

- Question about the fair hearing guidelines for new evidence.
    - Only allowed under these provisions if there is a fair hearing issue as described in Section 2-49:
        1. information considered was false or grossly misleading; or
        2. the hearing body failed to receive all relevant information; or
        3. the hearing body was biased.

- Question about how City Council determines what evidence can be submitted?
    - Decided based on information provided and any objections received at time of hearing.

Notice:

- The process should be made more transparent. One way to accomplish this is to allow people outside of the 1,000-foot notification area to be notified in the development review process.

- Use the radius of notification on development review projects for other board decisions that relate to development review projects.

- Public notice should be given to all parties in interest, including everyone within the original notification area for the development review application.

Timelines:

- Can take a long time to understand the ramifications of decisions, therefore deadlines should be extended to fill this knowledge gap.

- The timeline for new evidence – 1 week after deadline to file an appeal, this is limiting evidence for the appellant. It may take the appellant much more time to assemble new evidence.

- Developer should only get one week to put in more evidence, not two.