

**MINUTES OF THE WILLOWS PLANNING COMMISSION MEETING HELD
MAY 19, 2010.**

The meeting was called to order at 7:00 p.m. by Chairperson Domenighini.

PLEDGE OF ALLEGIANCE: Commissioner Alves led the Pledge of Allegiance.

PRESENT: Domenighini, Warren, Woods, Alves, Thur

ABSENT:

AGENDA REVIEW: There were no recommended changes by the Commission or Staff and the agenda for May 19, 2010 was accepted as presented.

PUBLIC COMMENT:

Forrest Sprague came forward to discuss his recent written comments to the Planning Commission regarding the revisions to the Draft Housing Element.

APPROVAL OF MINUTES: None

NEW BUSINESS:

REGULAR BUSINESS:

Discussion and direction to staff regarding permitted and conditional uses within the Central Commercial (CC) District, specifically regarding repair shops and gasoline stations.

Ms. Mantele stated that she has recently been approached regarding two possible businesses in the Central Commercial district. One of those businesses is a repair shop proposed at the address of 201 B. Tehama St. with Oak as the cross street. The other request was for a gas station located in the parking lot of the Holi Market.

There was some discussion between the commissioners regarding past uses of the building located at 201 B Tehama Street.

The issue for discussion is how 18.55.020 Permitted Uses (6) reads; "Newspapers and commercial printing shops, and repair shops." The question is, under the code, does the automotive repair shop proposed for 201 B. Tehama St. need a use permit or not?

Commissioner Warren stated that in her opinion she reads the language as sewing machine repair, shoe repair and the like. She is more comfortable stating that an automotive repair shop would have to have a Conditional Use Permit because with such a shop there is a potential for extra vehicles parked around the area and she would like the Planning Commission to have some control over that situation.

Chairperson Domenighini stated that he is inclined to agree with Commissioner Warren.

Ms. Mantele pointed out that repair shops are not defined within the code. Commissioner Alves asked if repair shops could be defined, because as it stands right now she thinks it would mean an appliance repair shop. Ms. Mantele answered that there cannot be a revision to the code to define a repair shop at this time, at a later date if there were an amendment to the code then a definition could be added, right now the city can only live with the document it has.

Mike Dacey, the owner of the proposed auto repair shop stepped to the microphone and stated that he has done a tremendous amount of work preparing the shop for business, there is plenty of room in the shop to store cars so extra cars on the street should not be a problem.

Commissioner Warren stated that her concern was if someone down the road was to come in and open an auto repair shop in the central Commercial District and is not as tidy about it as Mr. Dacey, then there would be cars parked haphazardly and there would be no recourse. Commissioner Warren stated that she wasn't as concerned with his specific building because there is a car lot behind it where the cars could be parked off the street if need be.

Commissioner Thur said that Mr. Dacey's property meets the criteria of the code with respect to the line "the property must have fronting on Tehama St."

Chairperson Domenighini asked Commissioner Alves what her thoughts were on the matter.

Commissioner Alves stated that she was thinking the same thing that Commissioner Warren was thinking regarding the matter because of the parking situation.

Commissioner Woods stated that she is in agreement with Commissioner Alves and Commissioner Warren; she stated that she thinks the auto repair shop would be acceptable with a Use Permit.

Commissioner Thur stated that he thinks it would be acceptable either way because the "Permitted Uses" section in the code does not refine repair shops. Chairperson Domenighini stated that his interpretation of that code section is that the proposed auto repair shop would be a use allowed with a Conditional Use Permit; he is however sympathetic that it will cost some money to obtain that permit.

Commissioner Woods inquired of Ms. Mantele if at the City Council meeting they relaxed some of the fees. Karen stated that is not the case, she spoke with the City Manager and he is agreeable that the fees could be handled in a payment fashion for Mr. Dacey if that would help with some of the hardship of obtaining the Conditional Use Permit. There was some discussion between the Commissioners about what the fees would be for a Conditional Use Permit. Ms. Mantele stated that the application fee is \$104.00 and the PTA deposit is \$650.00.

Ms. Mantele gave some background regarding Mr. Dacey's situation. Mr. Dacey leased the building space as the former tenants who owned and operated Freeman Granite in that location. There was no discussion between the property owners and Mr. Dacey regarding zoning issues or the fact that Freeman Granite had to obtain a Conditional Use Permit. The result is that Mr. Dacey has leased a building that he cannot use and he does not have the extra funds to put forth for a Use Permit as it is an unforeseeable expense. Mr. Dacey has come to the City of his own free will and has been forthright throughout the process.

Commissioner Woods is concerned about the grey areas that could be loopholes within the code where things are not clearly defined. Commissioner Woods asked Ms. Mantele how the City would go about moving forward to tighten that loophole. Ms. Mantele stated that the city can't make any changes to the code right now but the city can amend it in the future. Not long after the Housing Element is adopted there are going to be numerous code amendments that have to be done as a result of the Housing Element, this loophole can be closed at that time with a text amendment change. Commissioner Woods asked if the Planning Commission could be setting a precedent that it could defend. Ms. Mantele stated that once you allow a permitted use then you allow a permitted use. However she could put a note on Mr. Dacey's Business License application that says in this case this business is allowed in this building for this use.

Commissioner Warren stated that if this use is allowed and then there is a text amendment that fixes the loophole then the city wouldn't be setting a precedent because that sort of thing happens all the time where there was a use allowed but then the ordinance changes, that business is still allowed to carry on as usual but no new business like that would be allowed. Commissioner Thur concurred.

Commissioner Warren stated that the language in the code does not clearly define what a repair shop is at this time. Commissioner Alves said as much as she would like to let Mr. Dacey have the repair shop without further incident, however in light of recent circumstances that have come up she feels the city needs to maintain consistency across the board, the city could be setting a precedent.

Commissioner Thur stated that he feels the city would not be setting a precedent as long as the text amendment to define repair shops is done.

Commissioner Woods stated that what she felt the City Council was saying at their recent meeting was that the city needs to try to support its businesses. This is not the same economic climate that it was a few years ago and because of that the city needs to have some flexibility. In light of this, Commissioner Woods felt the city should not require Mr. Dacey to obtain a Use Permit.

Commissioner Thur agreed.

Commissioner Alves stated that she wants to make sure that the Commission is staying consistent across the board; she stated that she emphasizes with Mr. Dacey's situation however she wants to make sure that the Commission is not going to grant clemency to Mr. Dacey just because they think that this situation is agreeable. What happens when someone else comes along that wants to have the same type of business in the same zone in a location that isn't as great, would the Commission then have to allow it because they allowed Mr. Dacey's business?

Commissioner Woods said that she is going to hang her hat on the fact that the code says "repair shop" and that there is no definition for repair shop. Commissioner Alves stated that she will agree with Commissioner Woods. Commissioner Thur agrees with Commissioner Woods and Commissioner Alves. Commissioner Warren said that she is in agreement with the Commissioners. Chairperson Domenighini stated that as it stands the vote is 4-1 because he can't defend the repair shop with the way he reads that section of the code.

Commissioner Woods stated that it is a very grey area but her point is that she is willing to error on this side and then defend the position later. Ms. Mantele stated that this sort of confusion about the code happens quite often. The business climate is changing and as such the City must be flexible and help the businesses in the community if possible.

Chairperson Domenighini stated that there is a consensus that there is a grey area within the code as to the definition of repair shops and because of that Mr. Dacey is granted Planning Commission consensus that he does not need a Use Permit to begin his business in Willows.

Ms. Mantele stated that the second issue for discussion tonight is whether or not to allow a gas station in the parking lot of the Holi Market. The parking lot would be on the Tehama side. It would mean entering into an agreement with the city because the city owns the parking lot. It would mean a loss of parking spaces and there would be regulatory issues that the city would have to deal with.

Ms. Mantele stated that she wanted to bring to the Commission the Central Commercial district zoning and see if the Commissioners feel that there is any wiggle room in the code for a gas station.

Ms. Mantele suggested that the Commissioners look at 18.55.030 subsection (11) "Uses permitted with a Conditional Use Permit" states "Mini markets without gas sales." Ms. Mantele stated that there is no definition of "gas sales". There was some discussion among the commissioners regarding past gas stations on Tehama Street. Chairperson Domenighini asked what the thoughts of the Commission were.

Commissioner Woods stated that the way she reads the code it doesn't appear that the proposed gas station would be allowed. Commissioner Alves concurred. Commissioner Thur also agreed with Commissioner Woods. Chairperson Domenighini said that he is going to be opposite because if they allow the repair shop then standard reasoning would allow the gasoline station also.

Commissioner Thur asked what the city feels about the proposed gas station. Ms. Mantele stated that it hasn't been brought before the City Council; however it would need Council approval to move forward. Commissioner Woods said that the regulations that go with placing a service station is voluminous and she doesn't see the space. Commissioner Thur stated that the property owners are probably entertaining this idea because the parking lot of the Holi Market is never full. Ms. Mantele stated that may be a fact but if sometime in the future they need those parking spaces back they can't wipe away a gas station. There was a consensus among the Planning Commission that a gas station in the Holi Market parking lot is not an allowed use under the code.

COMMISSION COMMENTARY

1. Chairperson Domenighini asked if Ms. Mantele has anything coming up for the Planning Commission. Ms. Mantele stated that a public hearing notice will be going into the paper that Tuesday June 8th there will be a joint PC/CC public hearing to adopt the Draft Housing Element, meeting to be held before the regular City Council meeting.
2. Chairperson Domenighini asked Ms. Mantele if she has anything else coming up in the near future. Ms. Mantele stated that she is preparing the initial study for the Basin Street residential project and she anticipates probably by late June it should be ready to be brought before the Planning Commission.
3. Commissioner Woods asked about Wal Mart's progress. Ms. Mantele stated that Wal Mart just got an extension on their building permit. There have been some issues with Cal-Trans but they are moving forward slowly but surely.

ADJOURNMENT: The meeting was adjourned at 9:16 pm.

Larry Domenighini, Chairperson

Natalie Butler, Minute Clerk

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