

Minutes Ashton Planning and Zoning Commission

February 16, 2023
7:00 pm

Attendees: Commission Members: Rosie Owens, Trenna Howell, Danya Liebert, John Finley, Administrator Sara Bowersox, and Deputy Clerk Jan Warnke. Dallas Hill attended by phone. Also attending the meeting was Andrew Hood.

Chairperson Hill was not present for the meeting but was able to call in by phone. Vice chair Owens conducted the meeting. She opened the meeting and called on the commission to approve the minutes from January 19, 2023, meeting. Commissioner Hill pointed out a grammatical error. He also wanted to add a comment that he had made during the meeting that wasn't in the minutes. Deputy Clerk Warnke will listen to the recording and add the comment where it needs to go.

Commissioner Liebert made a motion to approve the minutes as corrected. Commissioner Owens seconded the motion. Motion passed.

Public Hearing Training:

Administrator Bowersox went through the steps that are taken for a public hearing. She explained to the commission that they would have a public hearing. Then they would vote on whether to refer it to the council to make the changes. She gave the commission a sample of what a public hearing notice would look like for the newspaper. The process requires that the notice is published twice. The first time must be fifteen days before the public hearing and the second one is seven days before the hearing. If the public hearing is about a certain piece of property, then everyone owning property within three hundred feet of that property will get a notice in the mail. If the public hearing is dealing with the whole code and not a specific piece of property, then there would be no mailing required. The administrator gave examples of each type of public hearing. The administrator then went over the public hearing procedures. She explained that the Ashton City Code has a specific procedure for a public hearing. When there is a public hearing in front of the city council the mayor can run the public hearing, but they can choose to have a hearing officer run the hearing. Often the mayor will have the attorney be the hearing officer. In the past, the Planning and Zoning public hearings have also had a hearing officer. In the city council hearings, the council members are the ones that vote. The mayor only votes when there is a tie, so it makes sense for the mayor to run that meeting. In the case of planning and zoning the chairperson is a member of the commission voting member. It might make more sense to have a hearing officer run the hearing. The mayor or chairperson will announce that the next item on the agenda is a public hearing and ask the person who will be the hearing officer to conduct the public hearing. The hearing officer will conduct the hearing according to the hearing procedure checklist. The person will call the hearing to order and explain the purpose of the hearing. The hearing officer will ask if the

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hearing notice was published and then ask if any of the commission members have a conflict of interest. This is a roll call vote so each member will answer by name when called upon. Next, the administrator presents their report on the recommended changes to the city code. If the subject on the agenda is site-specific, then the administrator would report on how the proposed subject fits the code or doesn't fit the code. The hearing officer will ask the commission if they have any questions for the administrator. The questions are solely for the purpose of clarifying the proposed changes to the code. After the questions, if any, have been answered then the hearing officer will open the hearing to public comment. The hearing officer will remind all those present that the city requests that the comments address the changes being proposed to the Comprehensive Plan and Ashton City Code. Each speaker will be allowed three minutes and must state their full name and physical address. The commission will hear the comments in favor of the changes first, then the neutral comments and last the comments against the changes. The commission cannot allow people to make personal attacks or discriminatory statements. After all the comments have been made then the administrator will be asked to give any rebuttal statements or clarify any earlier statements. If there was an applicant asking for changes then they would also be able to give any rebuttal statements. Then the officer would ask the commission if they had any more questions for the administrator or applicant if there was an applicant. The officer will then close the public hearing and turn the time back over to the commission to discuss amongst themselves. The commission can offer changes to the proposal before them. A decision is not required at that time. If the commission feels they need more information or more time to decide, then they can schedule a follow-up meeting. At the following meeting, there will not be any public comment. The meeting would just be for the commission to discuss and take a roll call vote on their decision. If the commission feels that they need more information and public input, they can ask for another public hearing. The administrator then went on to discuss sample motions. She gave examples of what could be said in a motion. The commission does not have to write up the wording for the changes. That is handled by the city clerk. She will write it up based on the commission's recommendation. The administrator asked the commission if they had any questions on how a public hearing should work. The commission told her that she was very thorough. The administrator reminded everyone that a regular commission meeting is a spectator sport. The people in the audience get to watch but unless they are on the agenda they don't get to participate. A public hearing is a participation event. They can give their input during the time of the public hearing.

Potential Residential Usage in Community Core Zone:

Administrator Bowersox ask the commission to look at the draft changes that she had prepared for them. She pointed out the changes that they had asked for. The administrator pointed out the two changes that were made. The first change was if a building has two floors, then the residential use should be on the second floor. The next change she made was, in the code she used the term must because when you get into law the word shall is optional and must is required.

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The code should read that if a building has two floors, then the residential use must be on the second floor. The commission was pleased with the changes. The administrator told the commission that she believed that they could hold a public hearing on these changes at the March Planning and Zoning meeting.

Vice chair Owens made a motion that they have a public hearing on the potential residential usage in the community core zone. Commissioner Liebert seconded the motion. Motion passed.

Administrator Bowersox explained to the commission that the Planning and Zoning commission will hold a public hearing in March and then send their recommendation of changes to the comprehensive plan and city code to the city council. Then the city council will have to hold a public hearing on those things in April.

Potential Setback exceptions for disability access:

Chairperson Owens turned the time over to commissioner Liebert. Commissioner Liebert was assigned to do research on other cities' codes and come up with some suggestions. Commissioner Lieber did a lot of research on different codes and handed out copies of some different scenarios. The first one is the recommendation that was brought to the commission in January. This recommendation came directly from the Idaho Falls Code. One allows a five-foot encroachment from the setback. Another does not allow any encroachment from the front or back setbacks. It only allows encroachment from the side yard setbacks. There are some that allow for an emergency encroachment for a maximum of one year. After the one-year mark, they must meet the code. She then told the commission that she found different ramps that someone can purchase. Some were straight and others had switchbacks. She believes that if someone can put in a ramp with switchbacks that meet the code why should there be an exception for someone else? The commission discussed permanent and temporary ramps. Commissioner Owens researched temporary and permanent structures. She told the commission that temporary structures are constructed purely on a temporary basis with the approval of authority for a specific period which will be demolished on completion of the approved period. Permanent structures are anchored to a permanent foundation with an impermeable floor and are completely roofed and walled. A door is recommended but not required. Another description was a structure fixed to the ground by a foundation allowed according to the building code. She feels the code needs a clear definition so it can be easily understood. Commissioner Hill thinks that an exception to the code for ramps should be for one that will only be used for a short time. He also feels that during the process of working on this topic, the commission needs to remain objective. Commissioner Liebert stated that the setbacks are there for a reason and a purpose and the commission needs to take that into consideration. Administrator Bowersox told the commission that she has been uncomfortable because this deals with the Fair Housing Act. Some people take the approach that if someone needs a ramp then they don't have to follow any rules at all, and the administrator is not comfortable

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with that. She feels the commission needs direction from the city attorney on what exactly the Fair Housing Act says we must do. What she has read is not very clear. Commissioner Howell believes that as the commission discusses these issues, be sensitive to the needs of people and be flexible so that all these situations can be addressed and customized to the need of the person. Deputy Clerk Warnke told the commission that if they came up with any ideas, she would email the commission each of their ideas. That way they would be ready to discuss them at the next meeting.

Vice chair Owens made a motion to adjourn the meeting. Commissioner Liebert seconded the motion. Motion passed.

Minutes respectfully submitted by Jan Warnke