



City of Kennesaw
PLANNING COMMISSION
Meeting Minutes

Doug Rhodes, Chairman
Allan Davis, Vice-Chairman
Jeff Powers, Fred Moore, Richard Anderson
Helen Scholes and Debra Williams

Wednesday, May 05, 2010

7:00PM

City Hall Council Chambers

NOTE: Planning Commission serves as an Advisory Board that makes recommendations to the Mayor and Council, which will be heard on May 17, 2010 at 6:30p.m. Unless otherwise noted. Anyone giving comments in the public session are to sign in and note that limitation of 10 minutes per side will be allowed.

Allan Davis, Vice-Chairman called the meeting of the Kennesaw Planning Commission to order at 7:00P.M. in the Council Chambers, 2529 J.O. Stephenson Avenue. Roll call was taken and the following members were present: Richard Anderson, Debra Williams, Helen Scholes, Fred Moore and Allan Davis. Absent: Doug Rhodes and Jeff Powers.

Vice-Chairman, Davis, noted there was a quorum present.

City staff representative, Darryl Simmons, Zoning Administrator was present. Council Liaison, Bruce Jenkins was also in attendance.

Action on Minutes – March 03, 2010 meeting & April 07, 2010 meeting

March 03, 2010 – Motion made by Richard Anderson and seconded by Helen Scholes to accept the minutes of the March 03, 2010, meeting as submitted. Motion carried. Yeas: Scholes, Anderson and Moore. Nays: None. Abstained: Debra Williams and Allan Davis (who were not present at the March 03, 2010, meeting).

April 07, 2010 – Motion made by Richard Anderson and seconded by Debra Williams to accept the minutes of the April 07, 2010 meeting as submitted. Motion carried. Yeas: Williams, Anderson. Nays: None. Abstained: Fred Moore and Helen Scholes (who were not present at the April 07, 2010, meeting).

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Public Hearing: Recommendation for proposed ordinance changes regarding Adult Entertainment Establishments and minor amendments to the Zoning Code of Ordinances

Zoning Administrator, Darryl Simmons, presented all proposed changes and read into record the following statement for consideration of code amendments that will regulate sexually oriented businesses:

“Before a local government is allowed to impose or change regulations on sexually oriented businesses, such as adult book and video stores or adult cabarets, the local governing body must consider the adverse impacts that those types of businesses have on the surrounding community. These types of impacts are called ‘secondary effects’. The United States Supreme Court has held that the secondary effects considered by a local government need not be local, but the City may rely on other studies, reports, cases, transcripts and the like from other jurisdictions to demonstrate those secondary effects.

Before tonight, you were provided with a copy of three judicial opinions and one study, that discuss these secondary effects and I trust that you have read those and considered them. These are as follows:

- 1) David Vincent, Inc. of Broward County, Florida, 200 F.3d 1325 (11th Cir. 2000);
- 2) Daytona Grand, Inc. v. City of Daytona Beach, Florida, 490 F.3d 860 (11th Cir. 2007);
- 3) Flanigan’s Enterprises, Inc. of Georgia v. Fulton County, Georgia, 2010 WL 520542 (11th Cir. 2010); and
- 4) National Law Center Summaries of “SOB Land Use” studies: Crime Impact Studies by Municipal and State governments on harmful secondary effects of sexually oriented businesses 2005.

I hereby tender a copy of these to the clerk for the Planning Commission and request that these become a part of the minutes for tonight’s meeting in consideration of these code amendments. In your recommendation to the City Council on these code amendments, it is important that you have read and considered this information. Thank you.”

Zoning Administrator, Darryl Simmons, presented all proposed ordinance changes to the Zoning Code of Ordinances. The discussion addressed Adult Entertainment Establishments by way of removing in its entirety Section 2003 (2003.1-2003.10). This section will be readdressed by the Mayor and Council by way of a more comprehensive licensing ordinance to regulate sexually oriented business.

Sections 881.3, 881.4 & 881.5 amendments being made to the Heavy Industrial District uses to allow for sexually oriented business as a permitted use with use limitations. Also noted among the Section 881 is the removal of Adult Entertainment Establishments as a special exception use. Renumbering of this section will be adjusted.

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Section 410 (Definitions) was adjusted with new/clarifying definitions and renumbering of the section. Specifically Section 410.74 (Live Entertainment) Section 410.130 (Sexually oriented business-definition)

An amendment to Article IX (Zoning District Regulations) the overall permitted uses chart by deleting as a type of use (Adult Entertainment Establishment) and by adding to the permitted uses chart (Sexually Oriented Business) as a permitted use in the Heavy Industrial District.

As a point of discussion and reference – Mr. Simmons noted a few studies and case laws for the Commission. Staff made recommendation of approval of all the noted proposed ordinances.

Floor opened for public comment, being none floor was closed for public comment.

Brief discussion took place regarding the proposed ordinances. Commission member, Fred Moore, asked the question as to why these changes were being brought forth at this time. Mr. Simmons commented that the City is taking a proactive stance and that the 10 months worth of research and legal review has been completed and is now up for consideration and approval.

Member, Helen Scholes made motion, seconded by Fred Moore to accept the recommendations/amendments to the ordinances, which include Section 2003, Section 881, Section 410 and Article IX (Permitted Use Chart) as presented by Staff. Yeas: Scholes, Moore, Anderson and Williams. Nays: None.

General Comments and discussion

Bylaws - Were briefly discussed with a few minor changes being proposed.

Zoning Administrator, Darryl Simmons, commented on a few minor changes being considered as part of the Planning commission Bylaws. The function of the Planning Commission, yearly required training for all members of the Commission and matters of compensation for attendance at scheduled called meetings. Members commented that as part of the requirements consideration should be given to the required training attendance being mandated or the opportunity for members to catch up with by way of obtaining the CD or training materials to review. Staff will again forward to the Commission members copy of the prepared Bylaws for their final review and comments, before staff forwards to City attorneys review. Once there is an attorney's approval given the amended Bylaws be reconsidered by the Planning Commission and recommended to the Mayor and Council under a formal public hearing by both the Planning Commission and Mayor and Council.

Commission scheduling for summer, holidays

There are often times during the summer months and holidays that it is hard to get a quorum for a meeting. Staff will consider possible cancellation of such meetings with confirmation by seeking the Commission's input.

Mr. Simmons noted that there are no formal applications for the June meeting and that he will not be available, however, if the Commission would like to hold training on this date that could be a consideration.

Members confirmed that it would be wise to continue with the yearly training by holding a quick schedule Planning Commission meeting to approve minutes and then adjourn and hold the next training session. It was noted by staff that this meeting due to conflict is scheduled for Thursday, June 03, 2010.

Adjournment

There being no further business, motion was made and seconded to adjourn the meeting at 7:30p.m.

Respectfully submitted

Diane Wrobleski

Diane Wrobleski, Assistant Zoning Administrator

The next scheduled meeting of the Kennesaw Planning Commission, Thursday June 03, 2010 at 7:00pm