



MINUTES: REGULAR COUNCIL MEETING
and PUBLIC HEARINGS
SEPTEMBER 26, 2019 @ 6:00 p.m.
DOVER CITY HALL, 699 LAKESHORE AVENUE, DOVER, IDAHO

Present: Mayor Shaha and Council Members Brockway, Evans, Goodvin and Strand. Staff – Planner Clare Marley; Assistant Planner Lisa Adair; City Attorney Stephen Snedden; Clerk Michele Hutchings.

Public Present: Ken Kovalchuk, Tony Raffo, Claudia Hon, Mark Hon, Tom Williams, George Eskridge, Angela Anderson, Corbin Anderson, Renita Stevenson, Brett Evans, Dan Parkin, Rebecca Kovalchuk, Julie MacDonald, Natalie Huls, Joe Hughes, Courtney Wimmer Beck, Marie Forbes, Beth Evans, Tom Evans, Deputy K. Trout

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE Mayor Shaha called meeting to order at 6:00 p.m.

II. PUBLIC COMMENT: Tom Williams, Guthrie Place – Read a letter from the Idaho Board of Professional Engineers and Professional Land Surveyors from the board’s September 19 and 20, 2019 meeting. The board reviewed a complaint filed by the City of Dover and dismissed the matter. Williams expressed concerns that council had wasted time and resources on complaint.

III. PUBLIC HEARINGS: Files AM16-19, ZC01-19, SUP001-19, and VAR003-19: Mayor Shaha reviewed the public hearing procedures. Marley confirmed that the files have been appropriately noticed.

Disclosures: Mayor called for disclosures or conflicts. Evans advised that she has family who owns property within 300 feet of the project and will recuse herself from the proceedings.

At request of Mayor, Marley announced the public hearing for the following: Kova Enterprises, LLC, File #AM16-19, Comprehensive Plan map amendment from Compact Suburban and Small-Scale Working Lands to Mixed Use with Conditional overlay; Kova Enterprises LLC, File #ZC01-19, Zone Change from Residential to Commercial; Kova Enterprises LLC, File #SUP001-19, Special Use Permit and Kova Enterprises LLC, File #VAR003-19, variance to allow for a 10-foot rear yard setback, where a 25-foot setback is required by Dover City Code.

Staff presentation: The four files were opened simultaneously by Mayor at 6:06pm. Marley and Adair presented summaries of the four applications, procedures for consideration, and the standards of review. Marley addressed written public comment concerns regarding noticing, combining hearings, notification of commission and council members, and denial of status as economic development director. Marley called for questions from council. Questions were asked about fencing, special use permit running with the land, start time, and future use of property if any of the files were to be approved. Council also requested clarification about the condition that development is to be in compliance with the site plan. Snedden noted that additional conditions of approval can be added by council.

Applicant presentation: Marty Taylor, AICP, Project Planner, James A. Sewell & Associates, summarized how the four applications meet code and reviewed the details of each application. He addressed concerns that were raised during the Planning and Zoning hearing including fencing, insurance rates, noise and glare, restrictions on the commercial use of proposed structures, and responsibility for ensuring applicant complies with city standards.

Mayor called for questions of Taylor. No questions from council.

Applicant Ken Kovalchuk, Kova Enterprises LLC began his portion of the applicant presentation. He provided a packet of information for council to review. Snedden expressed concern that council did not have the benefit of reviewing the packet prior to the hearing. Kovalchuk agreed to rely solely on his prepared presentation. Kovalchuk introduce himself and the background of the project. He noted the surrounding uses, architecture of proposed structures, and details regarding the use of the structures. Kovalchuk addressed concerns that had been raised during the Planning and Zoning hearing.

Council asked questions about the hours of operation, security, parking, tenant uses, and personnel.

Public testimony: Mayor opened public testimony at 7:30pm.

Mark Hon – In support, did not wish to testify.

As approved by Council at meeting on 10/10/2019 (mch)

Claudia Hon – In support, did not wish to testify. Written comment regarding design and value read into record by Marley.

Neutral testimony called for, no neutral testimony.

Courtney Wimmer Beck – Opposed, did not wish to speak. Marley read into record written comment regarding strong opposition of project.

Julie MacDonald – Opposed. Expressed concerns regarding streams and waterways that may not be mapped but are present on site. Was also concerned about animal habitat and how the proposal would affect quality of life for neighboring residents.

Amy Lizotte – Opposed. Concerned about impacts on wildlife. Noted that surrounding uses are residential and questioned how hydronic heat would be used in the structures when no water services were proposed.

Joe Hughes – Opposed. Clarified time limit for testimony. Raised concerns about aesthetics, noise, cential, uses of units by tenants, and number of trips per day. He noted that there is surface water on the site.

Natalie Huls – Opposed. Expressed concerns about safety for units and for neighbors and potential criminal activity.

Renita Stevenson – Opposed, did not wish to speak.

Angela Anderson – Opposed, did not wish to speak.

Tony Raffo – Opposed, did not wish to speak.

Corbin Anderson – Opposed. Noted existing wildlife habitat, compatibility with design of current residences, and safety of children and neighbors.

Brett Evans – Opposed to zone change. Questioned why Planning and Zoning Commission recommended denial. Expressed concerns about paving near Dover Bay Development, headlights shining into residences, and property values.

Dan Parkin – Opposed. Cited comprehensive plan including property values, character of neighborhood, noise. Stated that comprehensive plan was recently adopted.

Beth Evans – Opposed, did not wish to speak.

George Eskridge – Opposed. Said he did not want to see a change to the comprehensive plan and urged council to look at Planning and Zoning recommendation.

Mayor closed public testimony at 7:54pm.

Applicant rebuttal: Taylor addressed the concern that units would be sold individually and stated the project would have to go through the condo plat process in order to do so. He also stated that previous comments from Dover Bay Development had been withdrawn. Kovalchuk addressed concerns about wetlands, wildlife habitat, security, and noise. Brockway questioned the use of hydronic heating in the structures. Kovalchuk explained proposed heating system. Mayor affirmed that water services may be needed.

Mayor called for a five-minute break at 8:03pm. Hearing resumed at 8:08pm.

Mayor closed public hearing at 8:08pm.

IV. NEW BUSINESS [All New Business items listed below are **Action Items**]

1) Discussion/Decision: File #AM16-19, Comprehensive Plan map amendment from Compact Suburban and Small-Scale Working Lands to Mixed Use with Conditional overlay – Marley clarified that the application was for a map amendment. Council discussed other potential designations that would fit the proposed use. Marley clarified that council is reviewing the requested map amendment specifically to the mixed-use designation. Council reviewed uses that could be developed on the property with mixed-use comprehensive plan designation. **Councilman Strand motioned** to deny File #AM016-19 for a comprehensive map amendment from Compact Suburban and Small-Scale Working Lands to Mixed Use with Conditional Overlay for a 4.35-acre tract of land, finding that it is not in accord with the procedures and standards of Idaho Code and the general and specific goals and objectives of the adopted comprehensive plan, because that area was not intended to be a mixed use area when the comprehensive plan was

adopted and it is not in accord with comprehensive plan policies 3.G.3 (Livable neighborhoods with distinctive characteristics contribute to the whole of Dover) and 3.G.4 (There is strong sense of place and features celebrating Dover's community character. City Attorney Snedden asked Strand to confirm the motion was to deny, as written, with goals 3.G.3 and 3.G.4 Councilman Strand confirmed.

Councilman Goodvin seconded the motion. Roll Call vote: Brockway-Aye; Evans-recused herself from the proceedings; Goodvin-Aye; Strand-Aye. Motion to deny passed.

2) Discussion/Decision: File #ZC01-19, Zone Change from Residential to Commercial. – Brockway clarified that this file change is to commercial and not supported by the comprehensive plan map based on the decision made for File #AM16-19. **Councilwoman Brockway motioned** to deny File #ZC01-19 to rezone 4.35 acres from Residential to Commercial, finding that it is not in accord with the procedures and standards of Idaho Code, because it does not meet comprehensive plan goals and policies 3.G.3, 3.G.4, 9.G.3, and 11.G.2.

Goal 3.G.3, (Livable neighborhoods with distinctive characteristics contribute to the whole of Dover);

Goal 3.G.4, (There is strong sense of place and features celebrating Dover's community character);

Goal 9.G.3, (Protect the forest and natural ground cover within the city to reduce dangers of erosion, protect water quality, preserve wildlife habitat, and maintain aesthetics allowing consideration for fire safety, weed control and forest management);

Goal 11.G.2, (Consider fundamental property rights of all parties and the effects of decisions when adopting and applying planning policies and zoning standards).

Goodvin seconded the motion. Roll Call vote: Brockway-Aye; Evans-recused herself from the proceedings; Goodvin-Aye; Strand-Aye. Motion to deny passed.

3) Discussion/Decision: File #SUP001-19, Special Use Permit. – **Councilwoman Brockway motioned** to deny File #SUP001-19 for a Special Use Permit to allow for the development of rental garages, finding that it is not in accord with the general and specific standards of the City of Dover, and further moved to adopt the following reasoned statements that were recommended by the Planning and Zoning Commission. City Attorney Stephen Snedden and Planner Clare Marley read the Planning and Zoning Commission recommendations into the record:

Dover City Code Section 12-10-3

B. Will not be harmonious with and in accordance with the general objectives or with any specific objective of the comprehensive plan and the zoning ordinance, as previously determined in the zone change application recommendation (finding that is not in accord with comprehensive goals and policies: 3.G.2; 3.G.3; 3.G.4; 2.G.2; 2.P.2; 3.P.6; 9.G.3; 11.G.2.)

- Goal 3.G.2, (Residents desire to maintain a small-town character);
- Goal 3.G.3, (Livable neighborhoods with distinctive characteristics contribute to the whole of Dover);
- Goal 3.G.4, (There is strong sense of place and features celebrating Dover's community character);
- Goal 2.G.2, (Seek to attract full-time residents);
- Policy 2.P.2, (Provide opportunity to develop affordable workforce housing in proportion to the need in the Greater Sandpoint Region);
- Policy 3.P.6, (Discourage and restrict the development of large scale retail or commercial uses);
- Goal 9.G.3, (Protect the forest and natural ground cover within the city to reduce dangers of erosion, protect water quality, preserve wildlife habitat, and maintain aesthetics allowing consideration for fire safety, weed control and forest management);
- Goal 11.G.2, (Consider fundamental property rights of all parties and the effects of decisions when adopting and applying planning policies and zoning standards).

C. Will not be designed, constructed, operated and maintained to be harmonious and is not harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use would change the essential character of the same area.

E. Does involve uses, activities, processes, materials, equipment and conditions of operation that would possibly be detrimental to persons, property or the general welfare by reason of excessive production of traffic, noise, possibly smoke, fumes, glare or odors.

F. Because of the vehicular approaches to the property it could create interference with traffic and surrounding public thoroughfares.

Snedden and Marley asked for confirmation that the Council intended that the P&Z recommendation be incorporated into the Council motion. Council confirmed.

Councilman Goodvin seconded the motion. Roll Call vote: Brockway-Aye; Evans-recused herself from the proceedings; Goodvin-Aye; Strand-Aye. Motion to deny passed.

4) Discussion/Decision: File #VAR003-19, Variance to allow for a 10-foot rear yard setback, where a 25-foot setback is required by Dover City Code. – **Councilwoman Brockway motioned** to deny this variance, File #VAR003-19 for a 10-foot rear yard setback, where 25 is required by city code, finding that it is not in accord with the general and specific standards of the City of Dover as decided by the Planning and Zoning Commission and further moved to adopt the reasoned statements adopted by the Planning and Zoning recommendations:

The proposal was reviewed for compliance with the Dover City Code Section 12-8-3, Standards for Variance Review. The proposal IS NOT in accord with the applicable standards of Dover City Code Section 12-8-3, as follows:

B. A literal interpretation of the provisions of this title deprives the applicant of rights commonly enjoyed by other properties in the same district under the terms of Dover’s zoning regulations.

C. Special conditions and circumstances do not result from actions of the applicant.

D. Granting the variance will not confer on the applicant any special privilege that is denied by Dover zoning regulations to other lands, structures, or buildings in the same district.

The actions that could be taken to obtain approval are to:

1. Submit a new application that meets the standards of the City of Dover; or
2. Pursue such remedies as provided for in Title 67, Chapter 65, Idaho Code.

Strand seconded the motion. Roll Call vote: Brockway-Aye; Evans-recused herself from the proceedings; Goodvin-Aye; Strand-Aye. Motion to deny passed.

Marley and Snedden advised that the motion for File #SUP001-19 should be amended to include the actions that could be taken to obtain approval. **Councilwoman Brockway motioned** to amend File #SUP001-19 with the following statements:

The actions that could be taken to obtain approval are to:

1. Submit a new application that meets the standards of the City of Dover; or
2. Pursue such remedies as provided for in Title 67, Chapter 65, Idaho Code.

Goodvin seconded the motion. Roll Call vote: Brockway-Aye; Evans-recused herself from the proceedings; Goodvin-Aye; Strand-Aye. Motion to amend adopted motion to deny file #SUP001-19 passed.

Councilwoman Evans rejoined council.

Deputy Trout was excused.

5) Discussion/Decision: CAD Model Calibration Plan/Cost. Mayor reviewed the estimated cost of model. **Councilwoman Brockway motioned** to accept the estimated cost of \$8,800 for T-O engineering to do appropriate calibration for model. **Motioned seconded by Strand. The motion passed on a roll call vote 4-0.**

V. CONSENT AGENDA: No requests for review or comments by council. **Goodvin motioned** to accept the consent agenda items as presented, **2nd by Brockway.** All in favor, **motion carried.**

VI. FUTURE AGENDA ITEMS/MEETINGS: Future dates and events reviewed by Mayor.

VII. ADJOURNMENT: **Brockway motioned** to adjourn the meeting, **2nd by Evans.** All in favor, **motion carried.** Meeting adjourned at 8:51 p.m.