

Beverly Shores Plan Commission

March 5, 2018

6:30 P.M.

The meeting of the Beverly Shores Plan Commission was called to order at 6:30 p.m. at the Beverly Shores Administration Building. Members of the Plan Commission are; Brian O'Neil, Gabrielle Biciunas, John Daraska, Greg Lyman, Donna Norkus, Brian Quealy, Thomas Weber. All are present.

Member B. O'Neil stated the meeting was being recorded for the purpose of the minutes. Member D. Norkus, also Town Council President advised that new Commission Member G. Lyman was the Town Council President appointment from the Plan Commission to the Board of Zoning Appeals.

Review of previous meeting minutes. Minutes were incomplete without input from Town Attorney Nolan, Weber moved to postpone approval of the minutes until the next meeting, Norkus seconded. All approved.

1. Old Business:

a. Sign Ordinance

Member B. O'Neil stated the Commission has received correspondence from Attorney Connor Nolan regarding the Sign Ordinance. The Sign Ordinance is being revised because of Supreme Court decisions related to 1st Amendment issues related to the regulation of content in local ordinances. Attorney C. Nolan reviewed the Ordinance for these issues and other issues that might need to be amended and made modifications.

The Commission had questions on some aspects of the revised ordinance including permits for permanent and temporary signs, political signs, and the 60-day limit on realtor signs, in that the real estate process often is longer than 60 days. Commission agreed that there is more work to be done on the Ordinance and all comments can be gathered and forwarded to Attorney Nolan.

b. Tree Removal Ordinance

Member B. O'Neil advised this was a continuation of the Public Hearing opened on February 5 and Attorney Nolan has made changes based on the comments made at that meeting. The permit requirement has been removed from the improved properties section. Clarifications concerning improved properties were discussed as were those for the removal of trees from unimproved properties.

It was asked if since there was a fee for the removal of trees on unimproved properties, was there any mitigation considered for the removal of these trees. There were discussions on requiring a permit on improved properties versus unimproved properties and the exceptions involved. Member Daraska advised he was in favor of a permit application without a fee. Member Daraska advised the intent of the Ordinance was to make it difficult to remove trees. He also advised that clarification and introduction be added to the improved properties section. Member Weber commented about the duplication of a tree species in the list under nuisance trees and had questions about contractor licenses and definitions.

It was clarified that a tree removal contractor was separate from construction contractor and tree removal would be considered landscaping and the tree removal contractor is not required to register if this is separate from the building construction process. In that case the tree removal would be part of the building permit.

There were comments about fines and when they might be waived and clarification when waivers were permitted.

The question of fees was brought up and if there should be fees for any tree removal and the various tree removals that are fee exempt, and these removals were listed, which suggested there were no fees for tree removals. It was commented that there was no fee for removal on improved land and the only fees for unimproved land would be included with building permit fees, which is \$50 for the removal of up to ten trees during construction. There might be fees related to the removal of trees from unimproved properties if someone wanted to remove trees unrelated to a building permit.

Member B. O'Neil opened the meeting to public comments and Jim Mello and Camille Cribaro-Mello of 348 E Bellevue asked if a tree meets the conditions for removal under the Ordinance for removal, either diseased or a hazard, and is done with a permit is there a fee. Member B. O'Neil advised this is what they were still discussing at this time. The audience member asked if the tree were identified by certified arborist as diseased does this require a permit and is there a fee. Member B. O'Neil advised this would be under the listed exceptions that would need a permit but no fee. The audience member also asked if trees are damaged in a storm would a permit and fee be required. Member B. O'Neil advised that based on current discussions these would fall under the situation where the tree could be removed and a permit could be obtained within 5 days after the removal of the tree and no fee would be required. This same person asked if a certified arborist determined that a tree needs to be removed because of a danger to property how long do they have to wait for the permit to be issued. The Commission advised there is no

language currently in the Ordinance on whether the clerk can issue the permit or if it must go before the building committee. This has not yet been decided. The member advised if there is imminent danger to person or property the street commissioner, Town Marshall, can be contacted for removal, if no imminent danger then an arborist is contacted.

Mr. Mello again asked if they had to wait for a permit to be issued, how long the wait is. Member B. O'Neil advised the current version of the Ordinance has the building committee making this decision and they meet once a month. The audience member was concerned that he would have to wait a month to remove a tree from improved property. Commission advised no permit was required on improved property except as listed and in the case of diseased tree a permit is required but doesn't involve a delay. Mr. Mello continued to express concerns about a delay in issuing a permit and he felt there should be an expedited process for a homeowner to remove a tree. Member B. O'Neil advised they would consider these concerns.

Mr. Mello also expressed a concern that a Commission Member made the comment that the purpose of the Ordinance was to make the removal of trees difficult. Commission member Lyman stated that the purpose was to protect trees since trees are important to the community. Mr. Mello stated that if someone does remove a tree they should be required to replace it with a seedling or sapling and he has done this quite often and has planted numerous trees over the years.

Clerk Treasurer Ellen Hundt, who was in attendance as an audience member, suggested that instead of a fee, maybe just have the arborists register with the Town and be vetted by the building committee and then this company or arborist would be empowered by the building and site committee to makes these decisions.

Member B. O'Neil advised the information would be forwarded to Attorney Nolan and it was already stated that the requirement for a permit was removed for improved property. As far as the exceptions that are listed it should be left to a certified arborist to say that a tree has to be removed and the appropriate documentation left with the homeowner. There were suggestions to simplify the process so there were fewer obstacles for removal of trees on their property.

Member D. Norkus made the motion to continue the Public Hearing to the next meeting, seconded by Member G. Biciunas, motion approved by unanimous voice vote.

2. New Business:

Property Petitions

Member B. O'Neil advised that a property owner is looking to split his 7-lot property into 2 parcels with one having 4 lots and the other having 3 lots. Each property would be buildable and would meet the requirements of the Ordinances, including setbacks, minimum size, and frontage. Member B. O'Neil advised he would check with Attorney Nolan for any requirements and procedures related to this request and present the information to the Commission Members on whether this is an allowable action. It was discussed that there was definitions for minor and major subdivisions in the Ordinance and this might be a minor subdivision, or meet the exemptions from subdivision. Member B. O'Neil advised that he would like to confer with Attorney Nolan to make sure that no other procedures need to be followed before final approval.

Member B. O'Neil advised a second petition involved two property owners who are neighbors that want to do a land swap. He showed to Commission a site plan and documentation regarding this petition. He advised he would submit this information to Attorney Nolan for review and advice on procedures that need to be followed. Mr. O'Neil will report back to the commission at the next meeting.

Building Committee Makeup

Member D. Norkus explained that the Town Council is considering modifying the makeup of the Building and Building Site Committee to include five members which may or may not include the Building Commissioner, instead of requiring the Building Commissioner to be one of the five members. The Town Council is also considering establishing a separate part-time position of code enforcement officer to relieve the Building Commissioner of some of those duties. Member B. O'Neil advised these changes would require an amendment to the Ordinance which would involve a Public Hearing. Notes on these changes have been provided to the Town Attorney who will present a draft modified ordinance at the next meeting.

Member D. Norkus made the motion to adjourn, seconded by Member G. Biciunas.

Meeting adjourned at 8:30 pm.