



March 20, 2018

RE: ZOA18-00001 – Proposed Commission Level Zoning Ordinance Changes

To the Mayor, City Council, and Planning and Zoning Commission:

The following are comments on the proposed changes to the city's zoning code, which are submitted on behalf of the North End Neighborhood Association.

As an overall comment, we first note that the proposed changes are not accompanied by any explanatory text or history describing the rationale for the changes. We request that the city provide a brief rationale for why each of the changes below are proposed.

We now turn to individual comments on each of the proposed changes. The changes are first reproduced, and comments are interlineated below.

PROPOSAL:

I.

11-06-03.1 Single and Two-Family Uses

A. Accessory Dwelling Unit

- (1) The accessory dwelling unit (ADU) must be not larger than ten percent of the lot area or ~~600~~ 700 square feet, whichever is smaller, and shall not have more than one bedroom. Where practical, the ten percent size standard may be altered to accommodate logical expansions or internal conversions. Examples of this include, but are not limited to, the addition of a second floor to a detached garage or the separation of a basement as an accessory unit. Under no circumstances may the ~~600~~ 700 square foot maximum be exceeded.

COMMENT: We could potentially support the increase for ADUs from 600 to 700 sf especially because it makes such units more appropriate for alternative housing. That said, a major issue in many neighborhoods where ADUs are popular is lot coverage. For instance, the recent increase in lot coverage in historic districts was highly contentious. The staff should explain why this change is proposed; how it relates to the historic preservation guidelines changes; and how changes to ADUs will relate to the principal use lot coverage. Another concern in the neighborhood is that these ADUs will be used primarily for short-term rentals, which the city is largely preempted from regulating. The city should analyze whether increasing ADU size will also potentially change the character of the neighborhood by essentially zoning in short-term rentals as opposed to alternative housing options.

PROPOSAL:

11-03-04.14 Variance

C. Procedures

(2) Step 2: Neighborhood Meeting

Required. Only the residents immediately adjacent (including those across a roadway, street, or alley) project and the registered neighborhood association need be notified. Not required for administrative variances.

COMMENT: Without explanation, we cannot support the removal of a neighborhood meeting requirement in 11-03-04.14. We continue to support transparent city government that is responsive to local concerns and educating citizens about their growth.

PROPOSAL:

11-06-07.3 GENERAL STANDARDS FOR ACCESSORY STRUCTURES

B. Location and Setbacks

(6) Detached accessory structures ~~with six feet of separation from other structures~~ may utilize the following setback reductions:

- (a) Detached accessory structures under 120 square feet in area and under seven feet in height (from grade to the top of the wall under the roof) are permitted in any yard area except in front of the main building and in required street side and front yard areas.**

- (b) Detached accessory structures that are over 120 square feet, but less than or equal to 500 square feet of area and that are less than 14 feet in height, may have reduced interior side yard setbacks of three feet and rear yard setbacks of nine feet.
- (c) Accessory buildings that use these reduced setbacks may not occupy more than 50 percent of the lot's rear or side yard widths.

COMMENT: We may be able to support this proposed change with explanation. As it is, the removal of this term in 11-06-07.3 seems arbitrary. Again, explanation is vital to helping decisionmakers and the general public understand why the department is acting as it does.

PROPOSAL:

11-04-03 RESIDENTIAL DISTRICTS

~~5. FINDINGS FOR CONDITIONAL USES IN THE A-1 AND A-2 DISTRICTS~~

- ~~A. The proposed use, its bulk, height, intensity and location on the property, and all grading, paving and other associated site development modifications, are consistent with preserving the core values of the property as identified in the Comprehensive Plan or other appropriate guiding document, entitlement or deed restriction associated with the property.~~
- ~~B. The proposed use is consistent with the applicable open space requirements and allowances in Section 0 Foothills Planned Development Standards.~~
- ~~C. The use is compatible with, or can be conditioned to be compatible with, adjacent land uses. Conditions may include limitations on type, size, amount, location or operation of the use and all other property development modifications associated with the use.~~

COMMENT: The removal of requirements for findings on conditional uses requires explanation. Without such explanation, we cannot support the removal of these findings provisions.

PROPOSAL:

11-03-03 REVIEW AND DECISION PROCEDURES

13. Conduct of Hearings Before Review Bodies

C. Review Body Deferral Procedure

(1) Deferral Allowed

Applications that have been placed on the review body public hearing agenda may be deferred for ~~a~~ no more than 60 days unless the applicant agrees to a longer period.

(2) Lack of Quorum or Lateness of Hour

If the review body makes a specific finding at the public hearing that a limited delay is necessary due to the lack of a quorum or the lateness of the hour, then a delay can be granted to the next scheduled meeting of the review body. A request for deferral may be initiated by a member of the review body, the applicant, the Planning Staff or the public. Scheduled agenda items shall only be deferred by the review body and only during the public hearing.

(3) Guidelines

Pursuant to the following guidelines, requests for deferral submitted prior to or at the start of the public hearing must be ruled upon by the review body.

(a) If the applicant and the Planning Staff are in agreement on the deferral, including the requested length of deferral, and there is no public opposition, the review body may consider the request to be routine, the deferral may be placed on the consent agenda. Such requests should be deferred to a date specific when possible to avoid the requirement for readvertising.

(b) ~~The review body shall act on requests for deferral only after soliciting input from the applicant, staff and any concerned public. If a deferral is granted, any member of the public who cannot or will not return for a deferral hearing shall be provided an opportunity to testify.~~

(4) Considerations

~~In addition to the testimony on the issue the review body shall consider the following:~~

~~(c) Have there been previous deferrals?~~

~~(d) Are additional studies, redesign or other development alternatives being considered for which the time to complete cannot be accurately estimated?~~

~~(e) The number of citizens present to testify and their input on a date specific deferral. _____~~

- (f) ~~Does the review body have before it a written deferral request from the applicant?~~

(5 4) **Deferral Process-Indefinite Deferrals**

- (g) **~~Indefinite Deferral Process~~**
~~When action on an application has been deferred indefinitely at the applicant's request, the applicant shall pay an additional fee to cover the cost of readvertising before the application is scheduled for a public hearing. Such The fee shall be determined by the Planning Director.~~

- (h) **~~Deferrals for Sexually-Oriented Business Applications~~**
~~Unless the applicant agrees to a deferral, applications for Sexually-Oriented Businesses and Bikini Bars must be decided within 45 days following the public hearing. Failure of the Commission to decide such application within 45 days following the hearing shall result in its approval.~~

COMMENT: The proposed changes to 11-03-03.13 are very important and should not be undertaken without considerable discussion. These provisions govern deferrals. There is a fundamental misunderstanding about deferrals that should be cleared up in this instance. The issue arises because the parliamentary procedure of the Planning & Zoning Commission is Robert's Rules of Order (Robert's). Robert's provides numerous reasons for deferrals, and numerous ways that deferrals can occur. The deferral sections in the zoning code here make no statement that they override the parliamentary procedure of Robert's, which is adopted by the Commission's bylaws. For that reason, no matter what changes are made here, Robert's Rules of Order continues to provide a sufficient reason for the Commission to defer independent of the changes in this code provision. Nonetheless, this section in the code muddies the waters, confuses project sponsors, planning staff, and even many of the city's attorneys that do not routinely address administrative matters. The relationship between this deferral section and those of Robert's adopted in the bylaws should be clearly articulated.

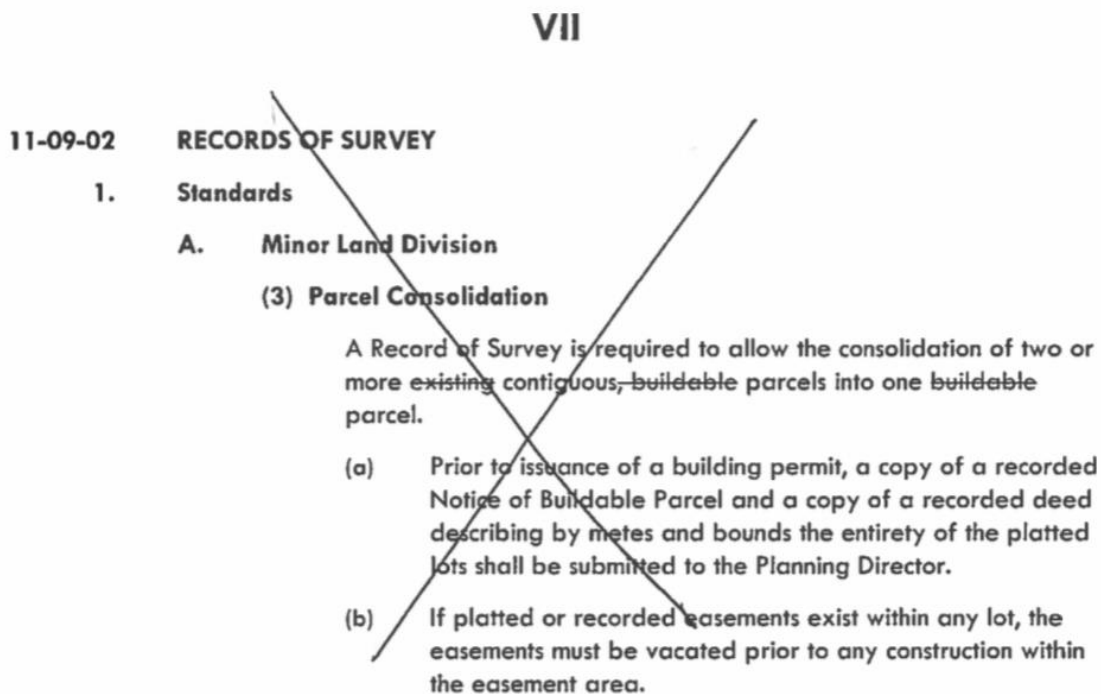
We believe there is no reason to limit the commission's ability to defer an action if there is good reason. Robert's already addresses what those reasons must be, and they are the adopted processes of the commission. Rather than tinkering with this zoning code provision, this section should simply be eliminated in its entirety and replaced with a section that says something to the effect of: "The Commission may defer hearing on an application in accordance with the parliamentary procedures adopted in its bylaws."

Finally, some projects are simply too large to be legitimately evaluated in one evening. Sometimes a project would benefit from new information or investigation that only comes to light in the

hearing. There is no good democratic rationale for limiting the ability of the commission to defer of its own devise. The city council has such an ability to defer; why limit the commission?

To the extent that the city staff differs, they should have to state their rationale clearly for evaluation. Further, staff should clarify in writing their belief of how this section squares with the parliamentary procedures of the commission.

PROPOSAL:



COMMENT: It is unclear what the “x” means, as it is not in “strikethrough” text like the rest of the proposed revisions. A clarification, as well as a rationale for the elimination of these sections, is necessary prior to a vote by the commission or the council.

PROPOSAL:

VIII.

11-06-08 TEMPORARY USES

2. ~~APPLICABILITY~~

B. ~~Uses that may not be considered for temporary approval include:~~

~~(1) Uses that require PZC approval.~~

~~(2) Structures or uses that are intended to be placed upon unimproved property, other than seasonal uses or uses incidental to construction.~~

~~(**these sections had been deleted in an earlier version of the code, but were somehow mistakenly carried through to the reformatted version**)~~

COMMENTS: The term “these sections” in the note here is unclear. What sections were deleted and “carried through”? Did the city council vote to eliminate these sections, or not?

Thank you for the opportunity to comment on these proposed Zoning Code changes. We believe these are important provisions and hope the Planning & Zoning Commission and City Council will not change them without a significant discussion of their potential impact.

We also hope that a written staff report will be provided with a rationale for each of the proposed changes that will further serve as a legislative history in future interpretation of any changes.

North End Neighborhood Association

board@northendboise.org