

MINUTES OF THE
Lone Tree Planning Commission Meeting
December 13, 2016

Lone Tree Civic Center

1. Attendance

In attendance were:

- Dave Kirchner, Chair
- Andrew Dodgen, Vice Chair
- Daryl Heskin, Planning Commissioner
- Rhonda Carlson, Planning Commissioner
- Richard Rodriguez, Planning Commissioner
- Kevin Spencer, Planning Commissioner
- Herb Steele, Planning Commissioner

In attendance from staff were:

- Kelly First, Community Development Director
- John Cotten, Public Works Director
- Lisa Albers, Capital Improvement Manager
- Jennifer Drybread, Senior Planner
- Hans Friedel, Planner III

2. Opening of Meeting / Roll Call

Commissioner Kirchner called the meeting to order at 6:35 p.m.

3. Conflict of Interest Inquiry

There were none.

4. Public Comment (For Items NOT appearing on the agenda)

There were none.

5. Minutes of the September 13, 2016 Planning Commission meeting

Commissioner Steele moved to approve the minutes of the September 13, 2016 Planning Commission meeting, Commissioner Spencer seconded, and the minutes were approved 6-0, with Commissioner Dodgen abstaining due to absence at the meeting.

6. Proposed amendments to the City of Lone Tree Municipal Code, Chapters 16 and 17, Project RG16-71

Ms. Drybread introduced the proposed amendments – she stated that periodically staff reviews the municipal code to ensure that regulations address existing problems or concerns, are clear and consistent, are in line with current practices or procedures, are current with changing circumstances or technology, meet the needs of the city, and that redundant, outdated, and/or unnecessary regulations are eliminated. The proposed changes impacted Chapter 16, Zoning and Chapter 17, Subdivisions. Most of the substantive changes were Public Works-related items. The proposed changes were sent out on referral.

Ms. Albers and Ms. Drybread then presented the update in more detail. New requirements for residential rain collection would allow for two, 55-gallon collection systems per residence (if multifamily, they would only be allowed on units of four or less). This provision was directly taken from new State regulations on residential rain collection with Lone Tree adding aesthetic standards.

Other changes to the code included moving the Article on Clearing, Grading, and Land Disturbance to Chapter 15, Public Works, of the Municipal Code, updating regulations pertaining to irrigation, changing language about public improvements to subdivision improvements, and updating regulations regarding structures that may be recommended by the Federal Aviation Administration (FAA) for mitigation measures or for structures determined by the FAA to constitute a hazard to aircraft from Centennial Airport.

Regarding the FAA regulations, the proposed language requires applicants to submit first to the FAA for review, and then for the FAA's response to be part of the packet that gets submitted to the Planning Commission/City Council. The FAA does not have the power to enforce these regulations – they leave it to the local jurisdiction to enforce standards.

Regarding irrigation, changes included removing very specific references to irrigation equipment products that date the code and change often and allowing for temporary irrigation to last for two seasons instead of one, as it can take plants a long time to get established in Colorado.

Commissioner Dodgen inquired as to whether HOAs could prohibit rain barrels. Mr. Cotten responded that HOAs can only regulate what is in their covenants. Ms. Albers and Commissioner Carlson both expressed their understanding that state law would preempt HOA covenants from prohibiting rain barrels. Mr. Cotten further added that they are only allowed on attached residential developments of four units or less. Mr. Cotten added that HOAs could probably control rain barrel aesthetics.

Mr. Cotten stated that the City currently doesn't have any way of enforcing rain barrel standards. In the update, they would have to be outdoors, above ground, and elevated no more than two feet above ground.

Commissioner Steele inquired about requirements that rain barrels be sealed so that mosquitos don't breed in them. Mr. Cotten responded that mosquitos don't typically breed in deep water; however, they would be required to be sealed.

Commissioner Rodriguez read from a CSU packet on the subject of residential rain collection that supported the earlier assertion that HOAs could not prevent these; however, reasonable aesthetic standards could be enforced.

Commissioner Dodgen then inquired as to whether through the regulation of aesthetics, HOAs could have a *de facto* prohibition on the right to have these. Commissioner Rodriguez believed that this would constitute an unreasonable regulation by an HOA and probably be unenforceable under state law.

Commissioner Steele inquired about the cost/benefits factors associated with requiring rain sensors. He was curious about the state of this science, as sometimes the rain sensors seemed to be inaccurate. Ms. Drybread responded that this technology has been around for at least a decade and that it saved money in terms of water conservation. Commissioner Steele replied that it would be nice to understand the quality of this technology as we were requiring it in the code. Mr. Cotten answered that they were getting better all the time – they were more accurate at monitoring conditions and efficiently managing the system.

Commissioner Steele queried Mr. Cotten whether these products were monitored and adjusted following installation. Mr. Cotten replied that in some cases they were.

Commissioner Steele suggested inviting Centennial Airport (APA) to make a presentation to the Planning Commission on their future plans for growth.

Chair Kirchner inquired about removing provisions requiring a certain type of irrigation system; how do we inspect/approve it in the field. Ms. Drybread replied that we do not currently have staff that inspects this in the field.

Chair Kirchner reiterated that having Centennial Airport (APA) present would be a good idea – this would appraise them of the future FAA review process and the airport's plans for growth.

Commissioner Heskin made comments regarding the review process in the Zoning Code, 16-27-90, regarding recommendations for approval with conditions. What was the follow up regarding applicant statements on the record? Ms. First replied that if something didn't rise to the level of a condition, then staff would follow up with the applicant during review and inspection.

Commissioner Heskin inquired about the section of the code stating that if the project were denied, it could not be brought again before the Planning Commission for a year. Commissioner Heskin hypothesized about what would happen if a project that was substantially in compliance with regulations, recommended for approval by staff, and approved by the Planning Commission, was subsequently denied by the City Council for some other reason – what would be the rationale of requiring the applicant to wait one full year before their project could be reconsidered. Ms. Drybread replied that in her 13 years of experience with the City, a project was never denied. Instead, if an applicant was heading towards denial, they would withdraw the project from consideration, revise, and then resubmit.

Chair Kirchner took exception with the order of Chapters being listed as Chapter 16, 15, and 17 in Section 17-2-10 Intent. Instead, they should be in numerical sequence (15, 16, and 17).

Commissioner Steele moved to recommend approval of the proposed amendments to the City of Lone Tree Municipal Code, Chapters 16 and 17, with Commissioner Dodgen moving to amend the language in Section 17-2-10 Intent so that the reference to Chapter 16, 15, and 17 would be listed in numerical order, Commissioner Spencer seconded, and the motion passed 7 to 0.

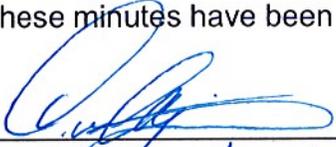
7. Farewell to Commissioner, Herb Steele

Chair Kirchner, Commissioners, and staff thanked and recognized Commissioner Steele for his service to the community. He resigned his term effective January 1st, 2017. He was presented with a plaque in recognition for his service and contributions.

8. Adjournment

There being no further business, Chair Kirchner asked for a motion to adjourn. Commissioner Dodgen moved to adjourn the meeting, Commissioner Spencer seconded, and the motion was approved 7-0. The meeting was adjourned at 7:10 p.m.

These minutes have been reviewed and confirmed by

 (name), on 1/10/2017 (date)
DAVID L. KIRCHNER