Councilmembers Present: Barry, Bassett, Carlson, Lillquist, Niner, Perrie and Mayor O'Brien

Others present were City Manager Barkley; City Attorney Pidduck; Community Development Director Witkowski; Deputy Clerk Keno; and approximately 20 members of the audience.

GENERAL COMMERCIAL LAND USE - CONTINUED DISCUSSION OF IMPLEMENTATION STANDARDS

The purpose of the study session is continued discussion of draft implementation standards for the General Commercial Land Use designation.

Community Development Director Witkowski outlined the documents in Council's agenda packet: 1) Staff's May 2, 2007 agenda report; and 2) Council's Working Draft #2 dated 5/2/07 based upon the Lamb Family's document submitted to Council earlier with amendments made by staff after review of that document. Distributed this evening is a letter from Carol Morris, land use attorney, dated May 10, 2007, addressing the vesting issue and provided to Council in its May 11, 2007 Friday mail packet.

Council deferred major discussion of Working Draft #2 to tonight's meeting. At the May 2, 2007 meeting Council made two suggested changes:

> Increase the amount of landscaping required in T-C zoning from the current 5% to the standard of 15% now required in all other zones, and also require the installation of a fixed irrigation system where appropriate based upon the landscape design and materials used. As applied to other zones, vegetated site drainage retention areas are counted against the required 15% landscaping.

> Revise the site plan procedures to reduce the number of times a site plan is presented to Council from the current proposed two to one. Under this revision the site plan would obtain its initial review and public decision from City Council. Subsequent to Council's approval of the basic site plan layout, the architectural building elevations and actual landscape plan would be reviewed and acted upon by the Landmarks and Design Commission.

Council asked questions of staff including the minimum 100,000 square foot project area for regional retail commercial development; current requirements throughout the City Code; and the generalized language of the Lamb Family recommendations. The City's existing Design Review Standards were put together after the Anderson v. Issaquah case. Council's goal is to come up with preferred standards for Planning Commission review and recommendation. City Manager Barkley pointed out
the revisions for the T-C zone are not intended to replace the Design Review Standards.

Council and staff discussed the current site plan process, including the SEPA component.

Larry Nickel, 317 ½ North Pearl, speaking individually and on behalf of the downtown Ellensburg business owners, spoke about the lack of a public process, participation plan, development fees, and community mitigation fees.

Beverly Heckart, representing citizens who agree with the Council that revitalization of the downtown must be a high priority, read from a prepared statement and submitted her written comments to the City Clerk. She spoke in support of regulations that discourage migration of businesses downtown to the interchanges and incentives to promote downtown development.

Martin Kaatz, 309 North Poplar Street, Downtown Task Force member, spoke in response to items in the agenda packet and submitted his written comments to the City Clerk.

Amy Kosterlitz, Buck & Gordon, LLP, land use attorney working with the Lamb family, discussed the points of Carol Morris’s May 10, 2007 letter. She stated vesting does not require approval. Developers will not spend dollars for site plan applications if the City is going to change the rules on them in the process. The Lamb family will not invest under these circumstances. The option of a development agreement does not make sense in this instance and would not achieve the goal of site plan vesting. Development agreements are used when there are no other vehicle for imposing conditions or vesting.

Council asked questions of Ms. Kosterlitz.

City Attorney Pidduck disagreed with Ms. Kosterlitz’s interpretation of the Carol Morris letter and pointed out specific sections in the letter in which Ms. Morris strongly recommends that the City not extend the vested rights doctrine to site plan applications. He reviewed the broad vesting language provision proposed on agenda page 48, #4 of the Lamb Family’s red-lined version of Working Draft #2. Council needs to consider Ms. Morris’s land use expertise and her expert affiliation with the Association of Washington Cities (AWC)-the City’s insurer. The Lamb family is not the only property owner or potential developer that may rely on the proposed language. It is staff and legal counsel’s responsibility to advise Council on what it feels is best for the City as a corporate entity and on behalf of its citizens. Neither City Attorney Pidduck nor Ms. Morris can recommend adoption of vesting language for site plan applications.

Council asked questions of staff. Staff advised Council the language proposed by the Lamb family is overly broad. Amy Kosterlitz spoke again about vesting and development agreements.

Council discussed referring the matter back to staff and AWC’s counsel for negotiation with the developer’s counsel in an effort to reach language satisfactory to both the City and developer. Staff pointed out this process could take several weeks depending upon the participant’s schedules.
Council discussed the need for various Boards and Commissions to schedule additional meetings.

Council listened to public comment from the audience.

Steve Merwick, President of Western Cities Development, Inc., 1570600 Fifth Avenue N.E., Bothell. Mr. Merwick stated he wants certainty before spending money on studies. Developers need the regulations up front and the assurance they won't change.

Robert Terrell, 7120 Hanson Road, spoke about uncertainty from a developer standpoint.

No additional public comment was given.

Council discussed the timetable previously established for the development regulations. Council consensus was to direct the City Attorney to explore with the proponents of development language that would incorporate protections for the City while at the same time providing reasonable assurance for the developer that its risk will take place in a framework that is not a constantly moving target. Staff will endeavor to come back to Council with language as soon as possible taking into consideration the schedules of the participants.

Councilmembers Lillquist and Niner outlined their list of topics to be discussed at the May 16 special meeting.

Council discussed scheduling an additional special meeting date.

Recommend Thursday, May 17, 2007 as an additional special meeting date. O'Brien

Affirmed

ADJOURN Adjourn at 9:25 p.m. Carlson

Affirmed

Mayor

ATTEST: ________________________________

City Clerk